UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK
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UNITED STATES OF AMERICA,

v. 18 CR 759 (RMB)

JAMES MOORE,

Defendant. JURY TRIAL

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New York, N.Y.
June 7, 2019
9:45 a.m.

Before:

HON. RICHARD M. BERMAN,

District Judge

APPEARANCES

GEOFFREY S. BERMAN
United States Attorney for the
Southern District of New York
BY: MARTIN BELL
VLADISLAV VAINBERG
Assistant United States Attorneys

DAVID M. GARVIN, PA
Attorney for Defendant

ALSO PRESENT:
Nathaniel Cooney, Paralegal for U.S. Attorney's Office
Special Agent Jordan Anderson, FBI
Alexandra Garvin, Law Clerk for Defense
Arlene Garvin, Paralegal for Defense

(Trial resumed; jury not present)

(At sidebar)

MR. GARVIN: Your Honor, we have an inquiry.

Yesterday the Court read one of the stipulations which was on the prior felony.

THE COURT: Yes.

MR. GARVIN: It was typed up. But we didn't know if it was being submitted to the jury.

THE COURT: It would be.

MR. GARVIN: Okay.

THE COURT: As the other stipulations are.

MR. GARVIN: So we respectfully ask -- we've discussed this matter, as we have previously talked about. We would respectfully ask if it could be amended.

THE COURT: Let me get my copy.

This is the one that begins --

MR. BELL: "I expect you to hear evidence that Mr. Moore was previously convicted."

THE COURT: Oh, yes, okay.

MR. GARVIN: If it's going to go back, we would respectfully ask the Court to amend it as shown by removing those four or five words and adding the comma.

THE COURT: Removing the words "or that it was part of a."

MR. GARVIN: Yes.

THE COURT: You're both agreeable to that?

MR. BELL: We're fine with that, your Honor.

THE COURT: Okay. I'm happy to do that.

Do you want me to advise the jury --

MR. GARVIN: I don't --

THE COURT: -- that I've changed the stipulation?

MR. GARVIN: I don't feel it's necessary. I'm not requesting it be reread.

MR. BELL: That's fine with us, your Honor.

THE COURT: But the one that goes in there shall be different.

MR. GARVIN: Yes.

THE COURT: Okay.

MR. GARVIN: Thank you, your Honor.

THE COURT: You're very welcome.

(In open court)

THE COURT: We're still waiting for one juror --

MR. GARVIN: Yes, sir.

THE COURT: -- who called and said he was running late. Should, from what I understood, be here any minute.

(Pause)

THE COURT: Just for the record, I'm handing out the revised jury instructions following our charge conference this morning. So I ask you to look them over. And if you have any remaining objections, either side will put them on the record

after you've had a chance to take a look at them.

MR. BELL: Thank you, Judge.

MR. GARVIN: Thank you.

THE COURT: And also for the record, I'm giving you a revised stipulation of parties dated June 6, which was yesterday, 2019, which I believe on consent of both the government and the defense amends somewhat the stipulation that we discussed yesterday; is that correct?

MR. GARVIN: Yes, sir.

MR. BELL: Yes, Judge.

THE COURT: And it's your intention that I not re-review this stipulation with the jury, but that when we submit the stipulations and the other evidence to the jurors, I give them the revised version.

MR. GARVIN: That's correct, your Honor.

MR. BELL: That's fine with us if it's fine with Mr. Garvin.

THE COURT: Okay.

(Pause)

MR. BELL: Your Honor, we are ready on the charge, if your Honor is.

THE COURT: I am.

Are there further changes or objections?

MR. BELL: So I think that there is one -- there are two things, your Honor. One on page 25.

THE COURT: On page 25?

MR. BELL: Yes, your Honor. On page 25 of the charge, Mr. Garvin noticed -- and I agree -- that on the very first line of the page, we had all had the words "against the defendants" coming out.

THE COURT: Page 25, the first line at the top?

MR. BELL: Yes, your Honor.

THE COURT: "I have given you"?

MR. BELL: No, no, no. Page 25 of the new version of the charge that we have. The page numbers are a little bit different because the font size is different.

THE COURT: Okay. Yes.

MR. BELL: So that page begins: "You will recall that I have admitted into evidence." And the next three words, by both Mr. Garvin's and my count from the charge conference, come out, "against the defendants."

THE COURT: Fair enough.

Mr. Garvin, right?

MR. GARVIN: Yes, sir.

THE COURT: Okay.

MR. BELL: The only other substantive change that I had would come on page 38 of the new charge.

THE COURT: Hold on. Yes.

MR. BELL: And so under "statements of the defendant," the sentence currently reads: "There has been evidence that

the defendant made statements to the United States Securities and Exchange Commission." We realized that the post-arrest statement would also fit this category, the video. And so we were just going to add to the Securities and Exchange Commission, "and to law enforcement." That should cover both.

MR. GARVIN: Yes.

THE COURT: That's okay?

MR. GARVIN: Yes.

THE COURT: Okay.

And so I'm going to make both those changes.

But as far as the government is concerned, do you have any further objections to the jury charges?

MR. BELL: We do not, your Honor.

THE COURT: And those that you just did raise, these two, I will make those changes.

MR. BELL: Thank you, Judge.

THE COURT: Then I turn to the defense.

You may have some objections remaining to the charges and, if so, you're free and encouraged to put them on the record at this point.

MR. GARVIN: Yes, sir.

The defense objects to the conscious avoidance instruction on page 29.

THE COURT: Hold on. Let me just find it.

MR. GARVIN: Of the new set.

THE COURT: In its entirety?

MR. GARVIN: Yes, your Honor.

We had previously discussed with the Court that in this particular case, the evidence is that Mr. Haddow testified that he told Mr. Moore that he -- that Jonathan Black did not exist, and that he was, in fact, Jonathan Black.

This is not the typical case where someone hands somebody a suitcase, and the person says, What's in it? And he says, You don't want to know. And he says, You're right. But he gets on a plane in Medellin, Colombia and lands in Miami. And when authorities approach him to take the suitcase, he can't say, Well, I didn't know that the suitcase was full of drugs.

THE COURT: I understand.

So I should have said, if I haven't already -- and I may not have -- that prior to this current conversation we're having, we did, in fact -- myself, the government, and the defense -- have a charge conference this morning starting at 8 a.m. -- and I appreciate everybody sacrificing being there -- at which time we went over the jury charges in detail, and that was off the record.

But I did say -- and I always do -- that after we have our final charges, if anybody has any objection to them, I would allow them, of course, to put them on the record.

So defense counsel, as he did in the charge

conference, is objecting to the inclusion of the charge on page 29 entitled "Conscious Avoidance."

Did you want to say anything in response?

MR. BELL: Only to note on the record this time, your Honor, that a conscious avoidance charge is appropriate here for at least the following reason: If the jury were to, as Mr. Garvin will ask them to, credit his argument that the conversation between Mr. Haddow and Mr. Moore that Jonathan Black isn't real and that he's Jonathan Black, that that conversation didn't happen, Mr. Moore would still be left with all of these email conversations in which he would have had to essentially deliberately avert his gaze in much the same way as the person with the suitcase.

Therefore, the conscious avoidance charge is appropriately included, because the jury can just as reasonably conclude that set of conduct and averment.

THE COURT: So over the objection of the defense, conscious avoidance has been included in the charge in the set of instructions.

Mr. Garvin, any other objections?

MR. GARVIN: No, sir.

THE COURT: Otherwise you're okay with the charges?

MR. GARVIN: Yes.

THE COURT: Okay. Then we'll make these final two changes that you have agreed to, and then we will have our

final set.

MR. BELL: Judge, may I also ask, for the record, for your chambers to email a Word version of that to us just for our files?

THE COURT: Yes.

MR. BELL: Thank you.

THE COURT: So it was page 25, Mr. Bell, and page 38?

MR. BELL: Yes, your Honor.

THE COURT: I've got them both.

We're going to call that juror who called and said he was running late but on his way and just see if he responds.

(Pause)

THE COURT: He said he's one block away.

(Pause)

(Jury present)

THE COURT: Please be seated, everybody. We'll pick up with what's called redirect examination of Mr. Phillips by Mr. Garvin.

THE LAW CLERK: Mr. Phillips, I'd like to just remind you that you're still under oath.

THE WITNESS: Yes.

MR. GARVIN: Thank you, your Honor.

THE COURT: You bet.

(Continued on next page)

MR. GARVIN: Good morning, your Honor, ladies and gentlemen.

SEAN VINCENT PHILLIPS,

called as a witness by the Plaintiff,

having been duly sworn, testified as follows:

REDIRECT EXAMINATION

BY MR. GARVIN:

Q. Good morning, Mr. Phillips.

A. Good morning.

Q. Mr. Phillips, yesterday you had an opportunity to speak a little bit about a company called Our Space.

Do you recall that?

A. I do.

Q. And during that period of time, counsel for the United States asked you some questions about Our Space and, in particular, showed you Government's Exhibit 1105.

Do you recall that, sir?

A. I do.

Q. Now, can you please tell us to the best of your knowledge who operates Our Space?

A. Our Space is operated by a gentleman named Kevan Halliwell.

Q. And to your knowledge, is Mr. Halliwell an owner of Our Space?

A. I believe he is. Absolutely.

Q. And is this a picture of Mr. Halliwell?

A. Yes, it is.

THE COURT: Could you turn that -- yes.

A. It's still a picture of him.

Q. And is he, to your knowledge, the CEO of the company?

A. Yes.

Q. And is he, to your knowledge, the owner of the company?

A. To my knowledge, yes.

Q. So you were asked yesterday if Our Space owes you any money. Do you recall that?

A. I do.

Q. And so does Mr. Halliwell owe you money?

A. Yes, he does.

Q. And does your testimony here have anything whatsoever to do with Mr. Halliwell?

A. None at all.

Q. Is your testimony here influenced in any way by the fact that Mr. Halliwell owes you money?

A. Absolutely not.

Q. I'd like to show you Government's Exhibit 2000. This is an exhibit that is -- the auto focus is taking -- there we go. And it's an email that is dated November 21st from Ana KP, which has been identified as Mr. Moore, to Mr. Haddow regarding Sean Phillips and Sean pitch. Do you see that, sir?

A. I do.

Q. And does that -- I'm showing you the next page of the

document. Does that refresh your memory as to approximately when you were approached to do some type of work with Bar Works?

A. Yes.

Q. And would that be on or about November 21st?

A. Yes, sir.

Q. And to be clear for the ladies and gentlemen, that would be 2015; is that correct?

A. Correct.

THE COURT: Could you just flip that to the second page?

MR. GARVIN: Yes, sir.

THE COURT: Maybe Mr. Phillips could explain what the significance of this page is, if we get it in focus.

MR. GARVIN: There we go.

THE WITNESS: The significance?

THE COURT: Yes.

THE WITNESS: It's basically kind of like the --

THE COURT: Well, just say line-by-line what it means.

THE WITNESS: Name of the company. Well, it was me doing individual work, so that would be me. Project title was five-day week in three, which basically was me saying that you were going to get a lot of value out of me. Estimated project start date and end dates are pretty self-explanatory.

THE COURT: So what are they?

THE WITNESS: December 1st, 2015 was the estimated project start date; the estimated project end date is February 29, 2016. Person that would be the project manager would be myself. Contact phone number is 859-227-6688. And the email is sean@ijustgotbetter.com.

THE COURT: Thank you.

THE WITNESS: You're welcome.

MR. GARVIN: Thank you, your Honor.

BY MR. GARVIN:

Q. So, Mr. Phillips, would it be accurate to say that this was a proposal for you to do consulting work commencing on or about December 1st, 2015?

A. Yes.

Q. And did you at that time estimate that the project would end on or about February 29th, 2016?

A. Yes.

Q. So it looks to be approximately a three-month period of time that the project would take?

A. That's correct.

Q. Is that correct?

A. Yup.

Q. Now, were there some delays in you receiving your initial retainer?

A. Yes. There were delays all along, but, yeah.

Q. And I'm showing you now Government's Exhibit 2002. And see

if we can focus in a little bit.

At the very top it says from "Passion Makes Profit, sean@passionmakesprofit." Is that your email address, sir?

A. Yes, sir.

Q. And it's to a whole bunch of people; is that correct?

A. Yes, it is.

Q. And can you please tell the ladies and gentlemen what was the approximate date that that was written?

A. January 13th, 2016.

Q. And it says: Wow, thank you all for such a warm and inspired welcoming.

So approximately two months later, were you still just being welcomed to Bar Works?

A. I was being welcomed to potentially do some work with Bar Works, yeah. This is all still part of the kind of beginning process.

Q. Okay. And as we saw in Exhibit 2000, that document is dated November 21st; correct?

A. Correct.

Q. And now we are in January -- actually, January 13th of 2016, approximately two months later, right?

A. Correct.

Q. Now, I'm going to show you Government's 2005. And this is an email from Tahyira Cordner at Bar Works; is that correct?

A. Yes.

Q. And is it to you?
A. Yes.
Q. Is it dated January 18th of 2016?
A. Yes, it is.
Q. And at that point, does she say -- well, first, was Tahyira in New York City?
A. Don't know. I assume so. I was told so.
Q. Well, let me go back. Does it say "tahyira@barworks.nyc"?
A. Yes, it does, in her email.
Q. Hi, Sean. Nice to meet you (electronically of course). I have attached our current marketing materials as per your request.

As of that date, had you met Tahyira personally, face-to-face?
A. No, absolutely not.
Q. And as of that date, had you been to New York City to see the actual Bar Works location?
A. No, I hadn't. Nope.
Q. Had you been to New York City for Bar Works for anything?
A. No, sir.

THE COURT: Was your meeting with her from video or --
THE WITNESS: I didn't have a meeting with her.
THE COURT: She said she met you electronically.
THE WITNESS: Electronically through email.
THE COURT: Email, not video.

THE WITNESS: Just email.

BY MR. GARVIN:

Q. I'm now showing you Government's Exhibit 2009.

Is this an email from you, Sean Phillips?

A. Yes, it is.

Q. And is it dated February 17th of 2016?

A. Yes, it is.

Q. And is this the document that attaches what is referred to as a deck?

A. Yes.

Q. What does that mean, "deck"?

A. A deck is a presentation deck, which could be a Power Point presentation or keynote presentation or a PDF or whatever.

Q. All right. Does it say, Please find two files attached, one info deck and one invoice?

A. Yes.

Q. As of that date, had you been paid your initial retainer?

A. I don't believe so, no.

Q. Is this part of the materials that were referred to as a deck?

A. Yes, sir.

Q. As of February 17th, you attached your invoice. Were you starting to get frustrated that you hadn't been paid?

A. All along the way it was a little bit like that, but, yes.

Q. And did you tell them that you needed an answer to kill the

file or to work the file at any time?

MR. VAINBERG: Objection as to "them."

THE COURT: So I'd also -- the redirect relates directly to the cross.

MR. GARVIN: Yes, sir.

THE COURT: And your question is what?

MR. GARVIN: Whether or not he was becoming frustrated that he hadn't been paid.

THE COURT: I think he said yes.

A. Yes.

Q. Yes, sir.

I show you what was shown during cross, Government's Exhibit 213, I believe. And this is an email from you to Renwick Haddow; is that correct?

A. Yes.

Q. And it says: It was great to speak to you and hearing your passion and enthusiasm for the Bar Works rollout.

As of that time, had you met Renwick Haddow face-to-face?

A. No, sir.

Q. And the date of that is February 19th; correct?

A. Correct.

Q. I'm showing you now Government's Exhibit 133. This is the agenda for New York City, March 2nd, relating to the Dolphin guys. And I'm directing your attention to page 2.

It says: Thanks, Nate. As long as we are there for full days on the 9th and 10th, I don't mind.

Did you meet the Dolphin guys on the 9th or 10th of March 2016?

A. I did.

Q. I'm now showing you Government's Exhibit 136. This document is dated March 6, 2016, agenda for New York City. It says: Written by Neil Storey. We have arranged for Sean Phillips to also be on the ground this week. I'm sure he'll add strong value to any video marketing collateral you may be planning to put together whilst there.

Were you in New York City approximately the week of March 6th through March 10th?

A. Yes.

Q. And was your purpose to be there for Bar Works?

A. Yes.

Q. And was that your only time of ever being there for Bar Works?

THE COURT: So redirect is to just go into the cross, not to reexamine the direct examination.

MR. GARVIN: Yes, your Honor. I'll move on.

Q. With regards to Mr. Halliwell, you were asked about Mr. Halliwell during your cross-examination. I'm showing you --

MR. VAINBERG: Objection, your Honor.

I don't think Mr. Halliwell came up on cross-examination. This is beyond the scope.

THE COURT: Do you want to talk to counsel?

MR. GARVIN: I'll rephrase the question.

(Counsel conferred)

BY MR. GARVIN:

Q. Do you see this is an email to Mr. Halliwell from Jim Moore on April 1st? And it says: Latest pictures from Times Square. And the comment is: The future competition, Bar Works.

As of April of 2016, sir, did you understand that Our Space had been formed and it was going to compete with Bar Works?

A. No, I didn't know at that exact time, but it was around just after that that I was approached about Our Space, yes.

Q. And finally, sir, did anyone during this period of time tell you that Jonathan Black did not exist?

A. No, sir.

MR. GARVIN: I have no further questions.

THE COURT: Thank you.

Any --

MR. VAINBERG: No recross, your Honor.

THE COURT: Okay. We will excuse the witness.

Thanks very much, Mr. Phillips.

(Witness excused)

THE COURT: Let's have the next witness please.

MR. GARVIN: Jens Madsen. I'll retrieve him.

THE COURT: Yes. So while we're waiting, we gave you menus for lunch. It might have been overly optimistic as to where we would be at lunchtime in terms of the trial, but lunch is on me, in any event, wherever we are. And if we are not ready to begin deliberations, maybe we'll take a shorter lunch and let you go home early, if it looks like it's going to go over to another day, Monday in any event. Is that fair?

JUROR: Thank you.

THE COURT: Okay.

JENS BIRGER MADSEN,

called as a witness by the Defendant,

having been duly sworn, testified as follows:

DIRECT EXAMINATION

BY MR. GARVIN:

Q. Good morning, Mr. Madsen.

A. Good morning.

Q. Mr. Madsen, can you tell us a little bit about your occupational background, sir.

A. I am a -- or I was a property developer. I worked as a sales director and managing director of several companies who developed commercial and residential property in Europe, mainly Denmark and England.

Q. And are you presently retired, sir?

A. I am.

Q. Can you tell us if there came a time when you met a gentleman by the name of James Moore?
A. I did.
Q. Do you see Mr. Moore in the courtroom?
A. I can.
Q. And is he sitting to my right at this desk?
A. He is.
Q. He is now standing?
A. Yeah.
Q. Can you please tell the ladies and gentlemen when it was that you met Mr. Moore?
A. It was 20 years ago; 1998, '99.
Q. And at that time, what were you doing?
A. I was working for a property company in central London. We were developing mainly office space.
Q. Did there come a time when you were familiar with the occupation of James Moore?
A. Yes. We were introduced to each other through a mutual friend, and Jim was working on some property matters. Our friend knew that I was involved in property and thought I could give him some advice.
Q. Are you familiar with a company called Inside Track Seminars?
A. Yes, I am.
Q. Can you please describe to us what that company did.

A. It held seminars for people, to teach them how to buy and even develop and sell property or keep as investments.

Q. And how big of an organization was this, if you know?

A. Well, in the beginning it was Jim and his wife; but at the end of it or at its peak, I think there were probably 350, 400 employees.

Q. And did you ever work at Inside Track Seminars?

A. No.

Q. Was there a sister company called Instant Access Properties?

A. Yes. Obviously these people who were taught how to invest in property, the first thing they thought about was how do I get a hold of one. And Jim realized that there was an opportunity to introduce the seminar students, people, to developers. And he arranged contacts with developers who had property to sell, and arranged discounts for his seminar students so that they could get in at the right level. And that became almost a bigger organization than the seminar company.

Q. And did you work at any time for either one of those companies?

A. No, I didn't. I did supply product for Instant Access Properties; in other words, I found developments in Spain, as it happened, where Instant Access Properties sold those units on behalf of the developer.

Q. So this would be Instant Access Properties members would be buying from independent developers, is that what you're saying?
A. Correct. Correct. Yes.
Q. Now, did there come a time when Instant Access Properties and Inside Track had a downturn in business?
A. Yes. In 2007, we had a worldwide property crash, together with a lot of other crashes. I think everyone is aware of that. And at the time property values collapsed and a lot of the things that Instant Access Properties was involved in as much as halved in value. There was no longer any finance for anyone who was buying properties, especially abroad. And basically the company collapsed.
Q. While the company was operating, did you observe whether or not the company was doing everything properly?
A. Yes. I mean to my knowledge, they were. I never, ever saw anything that made me think there was something that was wrong anywhere.
Q. When all of this happened, the downturn of the business, the crash, do you know if that took any kind of toll on Mr. Moore's marriage?
A. Yeah. I think his marriage was pretty well washed up before the crash, but it didn't do it any favors. You know, when you run out of money, you tend to start arguing with your partner, don't you?
Q. Mr. Madsen, did there come a time when Mr. Moore moved from

England and moved to Spain?

A. Yes. They took legal advice. There were plans to sell the business in the future. And to be tax efficient, they were -- it was suggested by their tax planners that they should create their place of residence in Spain. And so --

THE COURT: "They" being Mr. Moore?

THE WITNESS: Mr. Moore and his wife and his three children. And they all moved to Spain, I think it was in about 2002, 2003.

Q. Now, in or around 2005/2006, as part of the effort to prepare the company for its ultimate sale, are you familiar whether Mr. Moore opened sister companies by the name of Levinthal or Darrencrest?

A. No.

Q. Did there come a time when you became familiar with a person by the name of Paul Oxley?

A. Yes.

Q. And can you tell us how that happened?

A. I met him at Jim's home for a barbecue. He was over from Miami. They were going to sell -- Instant Access was going to sell Oxley's properties in Florida, as I understood it.

Q. You said you were at Mr. Moore's home.

A. Yes.

Q. Did there come a time in or around 2009/2010 that you spent an extended period of time there?

A. Yes. Unfortunately, the 2008 financial crisis affected all of us. And in 2010, my home was repossessed. And Jim was good enough to offer us to come and live in his home in Weybridge in England. That is in Surrey, England.

THE COURT: So I'm confused. Did he move to Spain?

THE WITNESS: Jim moved to Spain at the time, but he had a falling out with his wife immediately after they had moved to Spain. She packed up the children and her belongings and moved back to England. So Jim ended up living in Spain on his own much against the planning, the tax planning, that was put into place. But that was basically the beginning to the end of their marriage.

THE COURT: But when you moved in with him, that was in Spain or in England?

THE WITNESS: No, this is in 2003 that Jim moved to Spain. And we're talking 2010 when I moved in with Jim. But by then he had returned from Spain and was living in England.

THE COURT: I see.

BY MR. GARVIN:

Q. Now, when you were living with Jim in England, did you at any time become aware of a person by the name of Renwick Haddow?

A. Yes, I did.

Q. Can you please tell the ladies and gentlemen of the jury how that came about?

A. Jim had a piece of land in Barbados that was in arrears; the bank was threatening to take possession of it. And Jim wanted Renwick to buy it or to refinance it for him and for a project to be put on it and sold.

Q. And were you familiar with what type of project that was discussed?

A. Yes, I was, because I actually did all of the work in respect to that project. The piece of land, to value it, you need to know what you can build on it. And I got a local architect to see what the planning allowed to be built there, and he did a project on it. I did a feasibility study on it. And I had several conversations with Renwick about that feasibility study.

Q. And what type of project was determined to be suitable for that property?

A. It was what we call a part hotel. It was essentially large hotel rooms laid out as an apartment block with a common reception area and common part swimming pool, so forth, the idea being that you could sell those rooms off, but that you could run it as a hotel.

THE COURT: And what time period is this when you and Mr. Moore and Mr. Haddow were working on this Spain --

THE WITNESS: That was in 2010/2011.

Q. Now, were renderings made of this part hotel?

A. Yes, we had a little brochure made also.

Q. And how much time was actually spent with Mr. Haddow trying to convince him to take the project?

A. I don't know. Jim and Renwick did all of the talking in respect to the deal. I did all of the work in respect to putting it together. But I didn't speak to Renwick more than maybe two, three, four, five minutes on the phone on two or three occasions.

THE COURT: To your knowledge, did Mr. Haddow and Mr. Moore speak regularly?

THE WITNESS: Well, I don't know. I don't know.

Q. Now, to your knowledge, did Mr. Moore ever go to work for Renwick Haddow in a company called Room to Invest?

A. No.

Q. And were you working or excuse me living with Jim Moore during this period of time?

MR. BELL: Objection.

A. I don't know.

Q. Let me go back and see.

During what period of time did you live with Jim Moore?

A. 2010/2011.

Q. Ultimately, what happened with the proposed project in Barbados?

A. Nothing. It never occurred. And the bank repossessed the land. And that was the end of it.

Q. And was that the end of the conversations with Renwick Haddow?

A. Yes, obviously.

Q. And did you ever --

THE COURT: Wait a minute.

What do you mean "obviously"? You mean with you?

THE WITNESS: Yeah, me.

THE COURT: Oh.

THE WITNESS: Yeah.

Q. And to your knowledge, did Mr. Moore -- after the project had died, did Mr. Moore have any further discussions with Renwick Haddow during that period of time?

A. I have no knowledge of any goings on between Jim and Renwick.

Q. And you're a person who was actually physically living in Mr. Moore's house; correct?

A. Yes, I was.

Q. And would it be fair to say that you had a general knowledge of what Mr. Moore was doing at that time; correct?

A. Yes.

Q. And during that period of time, once this Barbados land deal ended, you do not recall any further communication with Mr. Haddow; is that correct?

THE COURT: That's not what he testified. He said he didn't know if there were any other communications between

those two other people. So he already answered that question.

MR. GARVIN: Yes, your Honor.

Q. You don't recall -- okay.

So did there come a time --

MR. GARVIN: May I confer with my client for one moment, your Honor? Because --

THE COURT: Sure.

(Counsel conferred with defendant)

BY MR. GARVIN:

Q. Sir, do you remember what year it was that you stopped living with Mr. Moore?

A. It was the 1st of November 2011.

MR. GARVIN: Your Honor, I have no further questions of this witness.

THE COURT: Okay. Any cross?

MR. BELL: None for Mr. Madsen, your Honor.

THE COURT: Okay. The witness is excused.

Thanks so much, Mr. Madsen.

THE WITNESS: Thank you.

(Witness excused)

THE COURT: Any more witnesses?

MR. GARVIN: No, your Honor. At this time Mr. Moore would rest.

THE COURT: Okay.

MR. BELL: No rebuttal case, your Honor.

THE COURT: Okay. So do you all have the evidence that you need or want in the record already? Anything you're missing?

MR. BELL: Your Honor, our record is complete.

Thank you.

MR. GARVIN: Your Honor, I believe the record is complete.

THE COURT: Okay. So we move to summations.

MR. BELL: May we have just a quick break to set up?

THE COURT: Sure. We'll take two minutes while they get organized and then we'll start the summations.

Both sides have rested, which means that the evidentiary portion of the case is finished.

Do you want a break in the meantime?

JUROR: We can stay.

THE COURT: Are you all right?

JUROR: We're fine. Thank you.

THE COURT: If anybody does want, you can.

JUROR: Your Honor, you said we're going to come back Monday?

THE COURT: Well, I don't know.

JUROR: Okay. If we are going to come back, can I get the letter?

THE COURT: Yes. For sure.

JUROR: Okay. Thanks.

THE COURT: It's not in my hands at this moment.

JUROR: I understand.

THE COURT: It's in their hands.

MR. BELL: We are trying.

MR. VAINBERG: The government is ready, your Honor.

THE COURT: Okay.

MR. VAINBERG: Good morning, ladies and gentlemen.

THE JURY: Good morning.

MR. VAINBERG: Over the course of the last week, you've heard all about how in 2015 and 2016, that man, Jim Moore, used his massive agent network at United Property Group to aggressively pitch investments in Bar Works.

Moore's agents were given glossy brochures that Moore helped craft. They got on the phone, on the Internet, and they flooded their investor lists with those brochures. Mr. Moore fielded questions from agents and investors and did everything he could to get investors to hand over their hard-earned money to Bar Works. And in that seven months he got over 100 investors to send over $7.5 million to Bar Works.

But Jim Moore knew something that his investors, his victims, did not. He knew that Bar Works was run by his old buddy, a notorious fraudster named Renwick Haddow. Moore knew that Haddow had a history of running investment projects that lost millions of dollars of investor money. He knew that Haddow was being sued in the UK for allegedly running two

illegal investment schemes similar in design to Bar Works.

And Moore knew that the investment brochures for Bar Works said nothing about Renwick Haddow. He knew instead that the investors were told that the CEO of Bar Works is Jonathan Black. Moore knew that Jonathan Black was Haddow's made-up identity. He knew exactly why Haddow was using that identity. Because if Haddow were exposed as the man behind Bar Works, well, potential investors would just run far away. And as you've seen and heard, the defendant actively perpetuated this lie towards agents and investors.

And he didn't help his pal Haddow out out of the kindness of his own heart; he became Haddow's business partner and co-conspirator, because Moore wanted half of the Bar Works business. And in the end, he got at least $1.6 million from Haddow before he double-crossed him and started his own competing investment scheme called Our Space.

Now, ladies and gentlemen, you know that the defendant did all this because you've heard the witnesses. You've seen the documents. You have an advantage that Moore and Haddow's victims did not. You have seen the overwhelming evidence. And as a result, you know the defendant is guilty.

Now, this is the government's closing statement. This is my opportunity to spend some time going over the evidence, walking you through it, and showing you how it proves Jim Moore's guilt beyond a reasonable doubt.

Before we begin to review the evidence of the defendant's guilt, I'd like to spend a few minutes talking about what's not in dispute here.

Now, in some cases, the parties argue over many key facts. That's not this case. Here, the parties agree about almost everything that happened here, with one key difference.

So what's not in dispute -- well, it's not in dispute that there was actually a fraud at Bar Works. Renwick Haddow pleaded guilty to committing that fraud and to conspiring with others. He admitted his role to it completely on the stand in front of you.

It's not in dispute that Bar Works was actually sold through those investment brochures that talked about Jonathan Black and said nothing about Haddow. One of the most fundamental lies in those brochures was about that fact. You saw the brochures, you've seen the letters to investors from Jonathan Black, followed by Jonathan Black's biography and his entire business plan for Bar Works. You've seen the workspace leases purportedly signed by Jonathan Black with investors, and there's certificates of ownership signed by him as well. You've seen how those brochures didn't mention Haddow in any way.

And you know who Haddow is. Let's be clear, Renwick Haddow is a notorious fraudster with a graveyard of Ponzi schemes in his past. No one disputes that those Ponzi schemes

earned Haddow a lawsuit and a disqualification and a mountain of bad publicity on the Internet. So you've seen what any person Googling Renwick Haddow's name would have seen: the press releases, the lawsuit, the FCA's allegations. You've seen it all. And investors didn't have that opportunity, because they didn't know that Renwick Haddow was behind the company.

There's also no dispute that just as a matter of fact, Jonathan Black was a fake identity adopted by Renwick Haddow; and that he did that because he knew his name was toxic. The parties also agree that this lie was highly material to investors who thought they were entrusting their money to a legitimate businessman instead of an infamous conman.

THE COURT: Instead of?

MR. VAINBERG: An infamous conman.

And you've heard from two victims: Loreley Zavattiero and Julian White, who both invested hundreds of thousands of dollars based on lies promoted by the defendant.

You saw what happened when Jim Moore set UPG loose on the market with those investment brochures. You saw the fake urgency pitches and the wildly misleading claims, like how UPG's representative reassured Julian White that UPG delved very deeply into the Bar Works business model when they flew to meet Jonathan and his team in New York; and how the only risk UPG could establish is a World War III doomsday one whereby NYC

shut down as a global capital of business and commerce.

Now, the victims told you that they never would have invested in Bar Works had they known the truth that Jonathan Black was fake or that the real person behind Bar Works had Renwick Haddow's history. They wouldn't have done that. And you know that that would have been the right decision. Because just like Haddow's past businesses, Bar Works turned out to be just another Ponzi scheme where the business couldn't support itself and investors were paid their guaranteed returns out of new investors' money. And like all Ponzi schemes, this one ultimately collapsed on itself.

You've now heard the truth about how Haddow and Black came to light in an article in January of 2017 that connected the dot between those two people; and how after that the new money dried up, investors couldn't be paid, and everyone lost their money. None of that is really in dispute.

And finally, there's no real dispute that that man, James Moore, was Haddow's business partner at Bar Works. You know that Moore helped Haddow come up with marketing materials for Bar Works, including the Wealthbuilder concept, in order to get investors to buy multiple leases. You know that Moore brought in his agent network at UPG that raised over approximately seven and-a-half million dollars from over hundreds of investors. There's no dispute about what James Moore earned from all of this. You saw that he received at

least $1.6 million from Haddow during his involvement with Bar Works.

So if we agree on just about all that, what's really in dispute here? It's really just one thing. This entire case just boils down to one question.

The defendant claims that despite everything you've seen and everything you've heard, he didn't know that he was involved in a fraud; that he believed that Jonathan Black was real and that, therefore, he was duped, along with all the investors.

And so the question for you boils down to this: When James Moore was pushing his agent network to sell Bar Works, did he know that Jonathan Black was really Haddow? You've seen a staggering amount of evidence to know the answer is yes.

So this closing argument will have three parts.

We're going to spend the most time on the first part, what the evidence showed actually happened. I'm going to be blunt. If you paid attention to just some of the evidence, you already know what happened here. Some cases that go to trial are close. This one is not. Between the testimony you've heard, the countless smoking-gun emails involving the defendant, the audio and video recordings, the evidence is overwhelming.

Part two will focus on the defense's theories of what happened and why Moore's defenses just don't hold water.

Now, let's be clear. James Moore has no burden in this case. His lawyer doesn't have to prove anything; we do. He doesn't have to even say anything. The burden of proof is ours, and we embrace it.

But when James Moore and his attorney choose to make arguments or cross-examine witnesses or address you as they have, you have the right and the obligation, I would submit, to scrutinize what they are trying to sell you. So in part 2, I'll just briefly point out why the defense arguments don't have any merit.

And finally, I'll talk very briefly about the charges in this case. James Moore is charged with two crimes: wire fraud and conspiracy to commit wire fraud. One for conspiring to defraud investors in Bar Works, and one for actually going through with it. We'll talk about how the evidence fits the elements of those charges and why he's guilty of both crimes.

All right. So how do you know that Moore knew that those offering materials were fraudulent with respect to who managed Bar Works?

Well, first, Moore knew that Haddow had both owned and managed Bar Works; that he was the person who decided everything. That's almost undisputed at this point. You've heard Moore admit to the SEC that Haddow controlled the company and he didn't want to share that control with anyone.

You saw how the defendant described Bar Works in an

email to a potential investment source. He said: Bar Works was a co-working company in NYC that is owned and being promoted by a pal of mine. You know who that pal is, that's Renwick Haddow.

You've seen and heard how Moore's partnership with Haddow on Bar Works began. Moore wanted Haddow's agents, that boiler room at In Crowd Equity, to sell Moore's investment project in Spain. Haddow told him that he was focusing on a new co-working company called Bar Works. And then you saw how James Moore ditched his own investment project to team up with Haddow instead.

You saw what Moore told Haddow: I'm right up for doing this with you. We could collectively sell the shit out of it.

But Moore didn't just want to be a glorified sales agent to Haddow. He told Haddow that his interest was being in business with him. He told Haddow: I reckon we can bring a lot to the party if you feel it's worth giving up something to grow fast. And so along with Moore, the principals of UPG also knew exactly who they were dealing with.

Remember that email when UPG finds out that Haddow gave away what they thought was their exclusive right to sell Bar Works to somebody else? James Robinson from UPG wrote to Moore: Renwick doesn't really give a flying fuck about anything with integrity. Well, guess what? As long as he pays

on the deals we and our agents do, then I do not care how he runs his projects.

And that, ladies and gentlemen, is Moore and UPG in a nutshell. They knew who was secretly running Bar Works, and they promoted the scheme anyway because of the insane commissions that they would get out of their investors' money.

So Moore knew that Haddow ran Bar Works, a fact that was disclosed nowhere in any of the offering documents. And he also knew that Haddow's name was in the gutter from all the lawsuits and the bad publicity surrounding Haddow's past schemes. He knew that Haddow got a fresh start in America, as both Moore and Haddow called it. And he knew why Haddow needed that fresh start. Haddow told him about the FCA's lawsuits against him for running those African land and carbon credit schemes.

Remember how Moore was updating Haddow on the FCA's news release in their case against Haddow? Moore is the one who puts the "F" word in the subject line of the email. That's because to Moore and Haddow, the FCA, that's the real dirty word.

He says: See, you're still getting plenty of air play from these guys. Look at how worried Moore is here, when Haddow says: It's like a stone in my shoe. Moore tells him he has a feeling it's about to turn into a blister.

And look at what's at the top of Moore's mind: What

entity owns Bar Works? Why does he ask that? Because he's worried that if Bar Works, his supposed 35 percent interest, the business he's supposed to be a 35 percent owner in, well, if that business is legally owned by Haddow, the FCA might come after it. Moore knows the FCA is serious, and he knows that this publicity is devastating for Haddow.

And it's not just that Moore knows about carbon credits and African land, he knows in September of 2015, right when Haddow is about to launch Bar Works, that it's structured in a very similar way to carbon credits. Investors purchased leases in some property rather than buying the actual property. No need for a title, pesky things like registration. Just slap on a certificate and you're good to go.

Remember when Haddow sent Moore a copy of one of those draft certificates of ownership and some bare-bones terms and conditions? Moore flips the documents over to UPG, and they pick up on it right away. James Robinson tells Moore: It's obvious that the first attachment is some sort of attempt at a client -- that's their word for investor -- feeling like they hold a deed. But as it's a certificate, it reminds me of carbon credits in a big way. But, hey, that worked; so no reason to redesign the wheel being round, I suppose.

And it's the same thing about the terms and conditions. Their quote: The very simple play that the carbon credits market used. And hey, if that worked, which it did,

then no issues from me. Keep it simple, stupid.

Haddow told you that the only thing that worked about carbon credits was that they were able to sell to a lot of investors. You know what happened to those investors. They lost their money.

But if there was still any doubt that Moore was unaware of Haddow's history, remember Government Exhibit 179.

We have these exhibit numbers during the presentation. And if at any point you want to look at something in your deliberations, you can feel free to look at it; they'll go back there with you.

Now, in this email, remember what happens here. Haddow has given away his exclusive; Moore asks Haddow about it. It was given away to a company called Pan Pacific Alternatives. And Haddow basically tells him, Pan Pacific, that's just one person. Who cares.

So it's still early going here. It's mid October 2015; no Bar Works locations are open yet; UPG hasn't closed any sales yet. But they did just find out that Haddow is the sort of person who's giving away exclusives left and right to different companies. Haddow told you that Moore confronted him, he gave his "who cares" answer, and Moore reports that answer back to UPG.

And then look at what James Robinson writes to Moore: I wonder if Renwick would care more about people knowing Bar

Works is his, and his history in carbon credits and lost investments for huge amounts of clients would damage his Bar Works reputation.

I mean that's the case in a nutshell.

You know from this email alone that Moore and UPG knew that Haddow's history was toxic; and that if investors found out that Haddow was behind Bar Works, it would tank the company.

Moore knew that Haddow was running Bar Works; he knows all about the baggage Haddow's name was carrying. So when Haddow sends him the prospectus, the marketing materials for Bar Works that conceal his name in the business, he knew exactly why Haddow's name wouldn't be there.

But you don't have to infer that Moore figured out on his own that Haddow was Jonathan Black, because Haddow told you that himself. You heard exactly when and how Haddow confirmed for Moore that he was Jonathan Black.

Renwick Haddow testified for close to nine hours for three days at this trial about all the things that they did in their fraud for Bar Works. That account came through crystal clear, and it was extremely damning for the defendant.

Haddow candidly walked you through his own past frauds in the UK in extensive detail, including the ones that got him that ban and the civil lawsuit. He told you about how even after he moved to the U.S. he continued committing crimes,

raising money from investors through misrepresentations.

And he also clued you in on his early dealings with Jim Moore. You heard how Moore and Haddow started doing business together with Haddow's hotel investment scheme called Room to Invest back in 2009 or so; how they visited each other over the years in Miami and Dubai; and how they reconnected in the summer of 2015. He told you about how Moore became Haddow's business partner in Bar Works after Moore pitched him on a different opportunity.

You heard with your own ears the moment that the defendant learned that Renwick Haddow was Jonathan Black. In September of 2015, after Haddow sent one of the prospectuses with that identity to Moore, there's no getting around to it. Moore flat-out asked Haddow, Who is Jonathan Black? And even though Haddow was paranoid -- he didn't want to talk on the phone about this scheme for obvious reasons -- he quickly replied: It's me.

Ladies and gentlemen, you've heard that Jim Moore had no problem with that fact. He didn't stop working with Haddow. He didn't turn away from Bar Works. Instead, he decided to get very rich from it. He negotiated a 35 percent equity stake in Bar Works for himself, and another 30 percent in commission for UPG on all incoming UPG investors. That's insane commissions for helping to promote this fraud.

And Haddow told you about all the other times that the

Jonathan Black issue came up, like when Moore brought the UPG team to New York to meet Haddow in November 2015. Haddow described to you the group's dinner at Tao, where everyone relaxed, they had some shots, and then Moore nudged Haddow under the table to discuss their friend.

And that's when Haddow also confirmed face-to-face to UPG what they already knew, what Jim Moore had told them, that Jonathan Black was an alias and that it needed to be used with extreme caution. They discussed email etiquette, which boiled down to basically being very careful to make sure that Jonathan Black seemed like a real person in their emails, just in case those emails ended up in the wrong hands, in the hands of an agent, if somebody forwarded them, or in the hands of the government.

He also told them that he had instituted a new Jonathan Black email account to be used with the outside world. And then you saw how that pretense played out. Moore continued to email Haddow at his renwickhaddow.com email address. But if he needed a letter from Jonathan Black, he'd send Haddow language that said something like, For Jonathan's approval, or, For Jonathan to respond to a question. And then Haddow would either feed more of that information or jump on the email chain and respond as Jonathan Black. Moore continued to cover up for Haddow whenever agents and investors wanted to meet with him.

You also heard why Moore left Bar Works sometime

around June 2015. It had nothing to do with Sean Phillips and how Haddow supposedly ill-treated him months earlier. You heard what really happened. Haddow allowed his other in-house master agent, a man by the name of Sam Aura, to poach agents from UPG; that way, Sam Aura would get the commissions and not UPG. He deliberately fell behind on paying Moore's commissions. So Moore got fed up, stole Haddow's business idea, and started Our Space. Haddow's own agents picked up the slack and Bar Works carried on for about six more months until Haddow was exposed in January 2017, beginning the death spiral of the company.

Now, ladies and gentlemen, from the beginning of this trial, the defense has taken shot after shot of Renwick Haddow. Mr. Garvin tried to make you believe that you can't believe him, no matter how much the evidence agrees with everything he has to say. Folks, there's an obvious answer for this, right? If you credit the testimony of Renwick Haddow, as you have every right to, this trial is over. Renwick Haddow's testimony gives you enough to convict the defendant on each of the two counts against him.

So why should you believe him?

Let's set aside the massive amount of evidence that corroborated Renwick Haddow for a moment. I just want to talk about Haddow on his own.

You've heard Mr. Garvin question him at length about

all of the lies he told to all sorts of people prior to getting arrested. But keep in mind, the person who told you about all those lies was Renwick Haddow. The defense doesn't seem to take issue with those truths. In fact, you can safely assume that they are truths.

Mr. Haddow was blunt about why he told so many lies in the past. He lied to investors to induce them to invest. He lied to securities regulators -- here and in Great Britain -- to cover up those frauds. He did this all for money. You know this because Mr. Haddow told you. And you know that for every lie, there was some incentive, some gain.

So let's assume for a moment that Mr. Haddow is still a creature of incentives. Well, what are his incentives now? His cooperation agreement is in evidence as Government Exhibit 171. And you've heard him discuss what it means. What it boils down to is simple: If he tells the truth, he believes that he will get a 5K letter. If he lies, he gets nothing and he's facing 80 years in prison, plus a potential perjury count. Whatever verdict a jury returns in any trial that he testifies at against any number of people has no bearing on that issue. You can see that in Haddow's words and you can see it in black and white in the agreement itself.

Ladies and gentlemen, the agreement that Renwick Haddow has with the government is an incredibly strong incentive for him to tell the truth. Why on earth would he

make up this entire story and take a risk at having the agreement being torn up and risk 80 years in jail? That would be a colossal catastrophic risk for his future and for the future of his family.

But more than that, if Renwick Haddow made up an elaborate pack of lies to implicate an innocent James Moore who just happened to partner up with a fraudster and promote a Ponzi scheme, wouldn't he have found a better way to tell those lies? Wouldn't the lies have been better lies?

Mr. Haddow testified that the Jonathan Black idea was his, even though he had been talking to Moore throughout the summer of 2015 when Bar Works came into being. He didn't pin it on him.

He admitted to you that he lied to Moore about some other things, like how well Bar Works was selling early on, and that he later cheated Moore out of his commissions. He told you that Moore had nothing to do with the Bitcoin Store, the other scheme that Haddow was running that overlapped with Bar Works for a period of time. And that's even though Moore visited the In Crowd boiler room where Bitcoin Store was being sold. He told you Moore had nothing to do with Bitcoin Store.

So let's be clear. Mr. Bell told you in his opening statement that Mr. Haddow is a known fraudster. He did all kinds of terrible things that made investors lose their money, and he told a lot of lies before he was arrested.

But we didn't pick him, ladies and gentlemen. This is the person that Moore chose to commit his crimes with. We would have loved to have put up a nun to tell you all about how she conspired with James Moore to defraud investors based on misrepresentations. But nuns don't do that. People like Renwick Haddow do.

And the question for you isn't whether you like him or you respect him; it's does his testimony line up with all the other evidence in the case. You bet it does.

Now, I know we've shown you more than our fair share of emails, and I promise you I'm not going to go through all of them again. You've already seen how those emails corroborate Haddow to the T. You saw the email etiquette in play where, with a wink and a nod, Haddow and Moore would schedule calls for Jonathan, arrange for Jonathan to sign legal documents, and craft detailed answers for Jonathan to give to agents.

And you also saw the slipups, the emails where Moore lost his discipline and made it clear that he knew that Jonathan was a fiction. Any one of those emails, with or without Haddow's testimony, is enough to convict Moore.

So let's just look at four of the greatest hits.

First you have the honeymoon emails. Remember the backstory to this? In February 2016, Moore is trying to get David Lilley, who has his own agent network, to discuss expanding Bar Works internationally.

So Moore sends Lilley an email copying the Jonathan Black email account, and Moore sends Lilley biographies of the three "partners" in Bar Works: Jonathan Black, Neil Storey, and James Moore. He's not talking about Jonathan Black as if he's some remote CEO, stuck in London, can't be seen, kept away from everybody by Renwick Haddow. No. In this email, James Moore talks about Jonathan Black as the primary originator in Bar Works who joined up with Moore and Storey as the product was formed. He's also a partner of the international expansion team with him.

Let's pause.

If the defense is that Moore never met or talked to Jonathan Black because Haddow somehow kept him away, what is Jonathan Black suddenly doing being part of Moore's three-headed partnership to expand Bar Works? And where is Renwick Haddow? Moore doesn't put him anywhere on this email.

So it's clear here that Moore wants Lilley on board first with the Jonathan Black lie, and it sort of works.

On page 1 of that same email, after getting these bios, Lilley agrees to fly out to Spain on February 17th to meet with Moore and Storey. That meeting goes well, and Moore clearly keeps up the Jonathan Black lie; because the next thing you see on March 2nd, 2016 is an email from Lilley to Moore and Storey, saying that they are now coming to New York, and they want to bring some professional video equipment to record some

clips with Jonathan.

So what does Moore do? He panicks. He knows Haddow is on his honeymoon in the Bahamas. That's the separate email chain he has with Renwick Haddow at Haddow's own email address at the top of the screen. And he knows that Haddow doesn't want to meet with David Lilley.

So now Moore forwards Lilley's question to Haddow and Storey and says: Guys, how do we feel we can overcome the Jonathan issue? He's on honeymoon?

And you know it's a joke, because they all know what Haddow is doing.

But the Jonathan issue is real. Somebody needs to be there in New York to show up as the face of the company if they are going to look serious. So Haddow tells Moore: They can meet Sam and Zoe and our new PR. And Moore knows that ultimately, if they are ever going to get off the ground with Lilley, the person who he wants to expand Bar Works internationally, well, at some point Haddow is going to have to get involved in some shape or other.

And so he nudges him: Would be great to find a way to get you involved, but equally understand your reticence.

And then Moore says: We will need a story as to why Jonathan isn't there.

And ladies and gentlemen, this isn't rocket science; it's common sense. They need a story to make up about

Jonathan's whereabouts because he isn't meeting David Lilley, because he isn't real. So Neil Storey then tells David Lilley that they've arranged for Sean Phillips to meet with him and record the clips.

Let's talk about the iPhone mixup.

Now, that's just one example. And what happens after this is kind of like an evidentiary gift that keeps on giving, because now it's a week later, and Moore is in New York for their meeting with Lilley. And he needs to get paper copies of whatever documentation investors get when they get a lease. You can see in the email here that he needs documents ASAP to give to someone at the hotel. He's rushing.

So Moore takes out his iPhone and fires off an email to Tahyira Cordner, one of the admin people at Bar Works, asking for the documents. You can see on the bottom line where it says "Sent from my iPhone." Now, that's different from just about every other email you've seen from Jim Moore from his gmail address. And it's funny, right, because on his iPhone, Moore apparently has Renwick Haddow's email address programmed in under the name "Jonathan Black." I mean totally devastating proof that Moore knows who Jonathan Black is.

And you will remember that in his opening statement, Mr. Garvin tried to front this email with you and presented this concocted defense that Jim Moore meant to send an email like this. The defense would have you believe that Moore got

suspicious and he wanted to call out Haddow as possibly being Jonathan Black. And I guess he decided that the best way he was going to do that was take out his iPhone, go into his account settings, change the name under Renwick Haddow account profile to Jonathan Black, and then send an email to Haddow's admin staff asking for some documents to be sent to him ASAP, copying Renwick Haddow and, I guess, somewhat hoping that Haddow notices that.

This email isn't even directed to Renwick Haddow. It doesn't say anything to Haddow or to Jonathan Black. Ladies and gentlemen, that story just make no sense and you know it. This is just a slipup, another devastating example of the proof that Jim Moore knew that Renwick Haddow was Jonathan Black.

You know what? While we've got it up, look at what happens here. So he needs the documents. He's in the hotel. And to here he gets the documents prepared, and who does Moore send to get those documents? He sends Sean running, Sean, that's Sean Phillips. That's the guy who supposedly had no involvement at all on anything on the investment side of the house. That's the guy who's running to get investment documents.

And can we just talk about Sean Phillips for a hot second?

I guess the defense called him because they wanted to bolster their narrative that Moore wanted to run Bar Works as a

legitimate company, didn't have too many membership, he tries to hire Sean Phillips, Haddow is erratic, doesn't want anyone but his 26-year-old wife involved, really rude to Sean Phillips. And so that's when Moore decides that he's going to leave Bar Works, because Bar Works isn't serious.

And look, that's not the first time the defense has told that story. James Moore has told that story to the SEC and to federal law enforcement agents in the audio clips, in the video clips that are in evidence. That's a story for why he got out of Bar Works.

Now, first of all, you know that story is contradicted by all the documentary evidence. You know why Jim Moore left Bar Works. And more importantly, nothing about that story has anything to do with whether Jim Moore knew that Haddow was Black.

And do you remember Sean Phillips on cross? Have you seen anyone flip-flop on so many things in such a short period of time?

First, he didn't know that he was the CEO of a company; and then it turned out that he was the CEO. He didn't know that he was hired; then it turned out that he was paid $7500 by Bar Works.

(Continued on next page)

MR. VAINBERG: (Continuing) He told you under oath that he had no idea that Bar Works was using his credentials as a sales pitch to investors. And then, it turned out that he wrote the press release himself in January that did just that. I'll stop here. Mr. Phillips doesn't deserve any more of our time.

Let's go to the next example. Remember the e-mails with the agent for the Chinese investors, Nick Reagan? He is a real agent that's doing real due diligence. You can see from the e-mails that he wants to make sure that Bar Works doesn't oversell the leases. Because if you sell investors a lease on every single work space in the location, every single desk, now you've taken on the obligation to pay your 16 percent annual return on every one of those desks. That's on top of actually using the money to run the business. So, everyone understands there's not going to be enough money to do that.

So Moore decides he needs a letter from Jonathan Black saying there is a maximum number of leases that will be sold at each location. He drafts the letter, he sends it to Renwick Haddow's e-mail address, and he asks Haddow to get it on headed paper. That's clear on Government Exhibit 43. And then, at the same time, Moore e-mails Nick Reagan, blind copying Renwick Haddow so he can see what's going on. And Moore says that he has asked Jonathan Black the CEO if he would be so kind as to issue a formal legal statement to further clarify that the

company will not oversell leases.

So, I mean, just another set of e-mails that totally sinks Moore's defenses. You know that Moore is lying when he wrote to Nick that he talked to Jonathan Black. You've seen that he told Haddow to churn that letter. So what you see here is Moore doing exactly what Haddow testified was part of Moore's role in this fraud. He's concealing Haddow, and he's putting on the lie that Jonathan Black was in charge.

What Moore does leads to real investors losing real money. You've heard testimony that, following these e-mails, Nick Reagan decided to sign on to sell Bar Works and raise millions of dollars from his investors.

Let's go to the F word e-mail. We've already looked at this one as clear evidence that Moore knew all about Haddow's baggage. But, remember, too, that it's also the same e-mail where Moore essentially tells Haddow how to be a better fugitive if the need ever comes up. Look at what he says: A few important points. Great lawyers, good barrister, massive distance to special place (hard to get back)." I mean, Moore is just blurting out in writing that Haddow should consider having a massive distance to a special place, and like if that's not clear, he's putting in parenthesis "hard to get back." And Haddow replies "I agree with you totally."

You've heard from Haddow that this kind of talk didn't come out of the blue. They had conversations about this issue.

Moore and Haddow had a number of conversations about different jurisdictions, which ones are safe. And even about one could get a fake passport from Dominica. So it's no surprise that when Bar Works eventually collapses and Haddow's wife tells him that the FBI is at their house, Haddow decides to camp out in a country that has no extradition treaty with the United States.

Do you know any law-abiding businesspeople who talk like that amongst themselves? Of course not. That's how co-conspirators talk to each other.

Now, if all of those e-mails weren't enough, you have Moore's own statements to the SEC. Remember, he agreed to be interviewed about Bar Works, and spent most of the interview talking about Renwick Haddow. But then, when the SEC asked him about Jonathan Black, he hesitated. And then here's what he said.

(Audio recording playing)

MR. VAINBERG: Ladies and gentlemen, Moore tells the SEC he's never met Jonathan Black. He's never talked to Jonathan Black. He never even asked to talk to Jonathan Black. You know that directly contradicts what he was telling agents like Nick Reagan for whom Moore was a trusted intermediary between themselves and Jonathan Black. And it completely contradicts what Mr. Garvin told you in his opening statement, that Moore wanted to talk to Jonathan Black, he kept on asking Haddow, hey, can we meet with Jonathan Black, and Haddow was

just denying him, left and right, access to the CEO.

Remember in his opening statement, Mr. Garvin said "Well, Mr. Moore only visited Bar Works here in New York a handful of times. And you'll learn that when he visited, each time, Haddow told Mr. Moore that Jonathan Black was not here in New York, he was in his office in London." Did you hear any evidence to that effect? Did you see any e-mails where Moore is asking Haddow if Moore can meet with Jonathan Black when he goes to New York? You didn't see anything like that. You know that narrative is just a concocted defense, fiction, because James Moore knows that Jonathan Black e-mail address. And if he had really thought that Jonathan Black was real and wanted to meet with him, you'd see conversations and e-mails between Moore and Jonathan Black. And what you see instead is a lot of James Moore talking to Renwick Haddow about other people that wanted to meet with or talk to Jonathan Black, and what they were going to do to keep that from happening. Or as Jim Moore put it in an e-mail about the local investor, the guy in Queens who wanted to stop by and asked for a contact name, "Sounds like trouble to me."

now, in that e-mail, the UPG representative said that this particular investor was really keen for Bar Works. He wanted to invest in multiple leases. And look, just use your common sense. If you are a legit sales agent, and after you got a client who wants to come in who is really interested in

investing, first thing you'd want to do is get him over. But Moore knows having a nosy investor who lives in Bar Works' backyard could expose Haddow. So that's trouble, and he tries to hold the investor off.

Now, it also makes perfect sense that Haddow invited Moore into the fraud, when you consider their friendship and their business history together. Jim Moore wasn't like a brand-new face off the block. He wasn't some remote agent. He was somebody Haddow knew for a long time, somebody that Haddow trusted. He was somebody that Haddow could trust to keep a secret and to keep the fraud going. He was a friend that Haddow had done lucrative business with before.

You've heard all about the about their Room to Invest venture in about 2009 or 2010, which involved fractional interest in hotel rooms. Investors would buy those interests and receive returns, supposedly from customers using those hotel rooms. Sound familiar? That's basically Bar Works in a nutshell.

The problem was Moore wanted Room to Invest to sell interest in a hotel in Barbados he owned. The only problem with that, as Haddow told you, is Moore didn't have a hotel built. He just had an empty plot of land. But there he was, ready to take investor money for something that had no ability to pay them for a very long time. Apparently, that was too much even for Haddow. He turned down selling the Barbados

property scheme, but invited Moore to partner up with him to sell investments in two real hotels, in Slovenia and Morocco. Moore agreed. And then what did Moore do as Haddow's business partner in that other venture? He introduces Haddow to agents who did the dirty work of pushing the investment product. And then, two, he improved the investment offer by adding a guaranteed return and an incentive for buying multiple units, and in return, Haddow told what you Moore got. He got half of Haddow's profit from Room to Invest.

Does that sound familiar? There is no surprise that Moore was in Haddow's circle of trust when he needed somebody to help launch Bar Works and get agents to sell Bar Works, because Moore had been in that circle of trust before with Room to Invest.

Haddow also told you about what happened after with Room to Invest. It successfully solicited between about 300 and $500,000 from investors, after Moore partnered with Haddow and before the project went bust. And then Haddow and Moore, well, you've heard how their friendship deepened. They continued seeing each other, going to Dubai, Miami, London. Haddow told you that they met on multiple occasions to hang out.

Moore admitted the same thing in his interview with the SEC. You heard Haddow even invited Moore to his own wedding, and Moore said he'd go if Haddow could loan him some

money or sell some of his Spanish properties for him.

That's not all. When Moore visits New York in October of 2015, you heard that Haddow took him right into his boiler room at In Crowd Equity. Remember how Haddow and Jason Rivera described that boiler room? Room full of degenerates, the Wolf of Wall Street scene. That's where Haddow took Moore. That's not a place you would take a casual acquaintance. That's not a place you take somebody you don't trust. That's where you take your co-conspirator.

And it doesn't even end there. You've heard when Moore wanted to set up some overseas companies, Haddow introduced him to his own accountant. The guy who helped Haddow set up a bunch of overseas shell structures so Haddow could launder proceeds of money from his schemes. You wouldn't introduce somebody who knows all your dirty business to somebody you can't trust, and Haddow trusted Moore.

I mean, in fact, and this was just a ridiculous moment, Moore and Haddow were so close, you've seen evidence that Moore even had all sorts of business dealings with Haddow's mom. Here he is, this is a smack in the middle of the Bar Work fraud in February of 2016, and Moore is writing to Mrs. Haddow about how great Renwick is. "How refreshing it is to work with somebody who is obviously raised with similar values to me." and then, after buttering her up, comes the second part. He is asking her if she can pursue with a

detective someone who helped make Moore bankrupt in the U.K.

How else do you know Haddow isn't lying when he told you that Moore knew about Jonathan Black? Look at their positions in Bar Works. Moore was Haddow's business partner and believed he owned 35 percent of the business. Again, that's not some remote agent. That's not someone that Haddow doesn't have a lot of interactions with. And Haddow needs Moore to know the truth about Jonathan Black, because if he doesn't, then Moore can't do what he is being paid to do. Talk to the agents, fend people off, and be the front between Haddow and the Jonathan Black face and real people. Makes perfect sense.

But, and I mean, let's also be honest. This wasn't the greatest secret in the world. Vincent Lake told you it took him a week to figure it out, just working as a temp at Bar Works. Now while investors living in countries overseas didn't have a way to do that, and had to rely on materials that UPG sent to them, Vincent Lake, I mean, just saw what was going on. That's why he started collecting documents to expose Haddow, including some of those spreadsheets you saw during trial.

If Lake knew, well then, you know that Moore knew, as Haddow's business partner and minority owner of Bar Works itself.

That brings me to another point. The business arrangement. So you've heard that Moore was getting 35 percent

of commissions and UPG was getting another 30 percent commissions on every dollar of UPG investor money coming in. That's 65 cents of every dollar UPG's investors think is going to Bar Works. All of that is being diverted, and then Haddow takes his cut, leaving just pennies to go into the actual running of the business.

Compare that to the 3 percent that Moore charged on his Instant Access Properties business, which also recruited investors to purchase properties. Moore knew that no one would give away such an insane commission if the underlying investment was legitimate. He knew exactly what was going on.

Now, I expect when Mr. Garvin gets up, the main thrust of the defense is going to be that Renwick Haddow is a liar and he's lied many times to many people. And I've addressed that, we've walked through all the corroborating e-mails. For somebody who is supposed to be a liar you can't trust, there sure is a lot of corroborating independent documentary evidence that backs up everything he's saying.

How else do you know that Haddow is telling the truth? Remember those moments during trial when Haddow volunteered damaging information, even when it was hurtful to him? Remember when defense counsel asked Haddow if it was strange for Renwick Haddow to hire the Bukher Law Firm and tell them the client is Jonathan Black. And Mr. Haddow responded, "I wouldn't call it strange. I would call it fraudulent."

Remember when Mr. Garvin asked if investors lost approximately $38 million? And then Haddow corrected him and testified it was approximately $50 million.

Now, you saw lots of efforts by the defense to trip up Haddow about dates. Dates when he met with the government, dates when he met with Sean Phillips. Was any of that consequential in any way? Of course it wasn't. On the important events that unfolded in this fraud, Haddow was clear, and he was consistent, and backed up by overwhelming corroborating evidence.

Now, the defense may make other arguments to confuse the evidence and try to suggest that Mr. Moore didn't have any intent to defraud investors. We've walked through a mountain of evidence to show you that's exactly his intent.

But there is one more piece you are allowed to consider on that question. And that, as Judge Berman will instruct you, has to do with the defendant's felony criminal conviction in Florida for misprision of a felony. You've heard that Moore pleaded guilty to misprision of a felony in February of 2018 in connection with a condo development project that he was promoting in Florida. You saw from the plea agreement what that means. He learned of the felony, he didn't report it, and then he concealed it.

Now, ladies and gentlemen, you know that Moore's role in Lake Austin was strikingly similar to his role in Bar Works.

These were both real estate investment projects and they were funded by individual investors. And in both schemes, Moore acted as the business partner to the developer, a type of master agent, the person responsible for bringing in investors for marketing the project. He was completely hands on. Remember that promotional video we played for you in Lake Austin? That's Jim Moore recording a video, reassuring investors that everything is going to be great and their investment could still be a winner.

In both schemes, during Moore's participation, misrepresentations were being made to investors. In Lake Austin, they were being told that their deposits would stay in escrow, when, in fact, the developer was paying Moore his commissions out of those escrow deposits. And in both schemes, the developer openly discussed the fraud with Jim Moore.

You see in the plea agreement and the factual basis that Mr. Moore admitted that the developer told him that that's what he did. And Mr. Moore, what does he do next? He has the crime remain concealed. And what happened in Bar Works? He finds out at the beginning of the scheme that Haddow is running it, that Haddow is Jonathan Black, and he doesn't just conceal it, he actively pushes the fraud, he comes up with all sorts of coverups to help Haddow.

What's the motivation? Money. You've seen how much money he gets for doing those things.

When you think about what was Moore's state of mind, what was his knowledge, what was his intent, was he really making a mistake about how he was perceiving things at Bar Works, you can consider this conviction for those purposes.

Now, you also remember that in the post-arrest video that was taken when Mr. Moore was arrested for that fraud in February 15 of 2017, he made a number of statements. So, remember, he is arrested February of 2017. That's like about a year, little bit less than a year after he leaves the Bar Works operation. And you remember how evasive he was when he was asked about Bar Works. He said he hadn't done anything for money since 2010. He repeats it. He knows, sitting in that interview, that he had gotten at least $1.5 million from Bar Works. That's not the sort of money you'd forget you received. But it is only when agents explicitly asked him did you receive wires from Bar Works that he admits Bar Works, and then goes into a whole explanation of what Bar Work was and how he left because Haddow was so mean to Sean Phillips.

So, when you think about defense arguments on Mr. Moore's intent and what he was doing, consider those things.

I also expect the defense will try to give you an alternative explanation for why those e-mails look the way they do. I expect they'll cherrypick some of those e-mails where Haddow and Moore and people at UPG are talking about Jonathan

Black as if he is a real person, and suggest to you that that means they all really believed that Jonathan Black was real. That's just them talking about Jonathan Black. But for some reason, he doesn't show up on any of these e-mails.

Look, you know why those e-mails look the way they do. You know Haddow and Moore had worked out so they would talk about Jonathan Black as if he is a real person in case the e-mails got out. And for example, if Moore needs Haddow to create a letter from Jonathan Black. That's because they're worried about creating evidence of their fraud. E-mails are saved, they're stored, they can be forwarded. All it takes is one e-mail to expose Haddow and Moore. They were worried that those e-mails might fall into the wrong hands, just like here.

So keeping up that pretense that Jonathan Black is a real person on those e-mails, that could help them confuse the issue, and allow either one of them to argue that they didn't know that Haddow was Jonathan Black. That they didn't act with fraudulent intent.

The internal coverup was designed in part for a trial like this one. It was designed to confuse people looking at those e-mails. Ladies and gentlemen, don't be confused. You know exactly why those e-mails were written in that way.

You also know that even with all that e-mail etiquette, they slipped up a bunch of times. The defendant is a prolific e-mailer. He has a sense of humor. You saw those

jokey e-mails where he talks about letters from Jonathan Black being signed as from M. Mouse. Mickey Mouse. Cartoon character. Somebody who is fictional, like Jonathan Black. You saw the honeymoon e-mail where he's joking about saying Jonathan Black is on his honeymoon. You saw him not even noticing that when he's writing from his iPhone, the iPhone has associated Renwick Haddow's e-mail with the Jonathan Black name.

The defense explanations for any of those slipups, they make no sense. We've already talked about the iPhone issue. We've talked about the e-mail that says the Jonathan issue, the idea that if Jonathan is in the U.K.

Again, if you hear arguments asking you to believe -- on no evidence presented to you -- that Haddow was telling Moore each time he was visiting New York that Jonathan Black was stuck in London, couldn't meet him, you know that's not true, and you know that you would have expected Moore to ask Haddow questions about that over e-mail. They e-mailed about everything else.

Now, you may hear an argument that Moore's e-mails -- you remember there were a couple of e-mails basically to the effect that nobody would be so dumb as to commit a fraud right here in the United States. That the United States has really stringent securities laws, and if Bar Works was a fraud and the things in the prospectus are not true, that would be the

dumbest thing you could do. You've seen an e-mail where Mr. Moore writes to UPG that that could land somebody 150 years in prison. So you may hear arguments that if Moore is writing those things, then he must be believing that he himself is not in on a fraud.

Now, you know that there a couple of reasons for those e-mails. First of all, there are e-mails in which Moore makes it clear that he thinks as long as they don't sell to U.S. investors, that they're okay. That there is somehow a difference in the law between selling to U.S. investors and selling to investors overseas. And even though Bar Works is right here in New York, that as long as UPG sells to people outside of the United States, that there is some legal difference around that. You have seen e-mails that Moore is on that discussed that issue.

So one thing you can infer is that when Moore goes out of his way to tell the SEC and to tell people at UPG about those laws, that he thinks he's safe, because they're not selling to U.S. investors. So even if Haddow is ever exposed as Jonathan Black, that Moore and UPG will be okay because they only targeted foreign investors.

Now, you may also hear arguments that the fact that Jim Moore voluntarily produced his documents to the SEC, again, means he has nothing to hide. And consider these points. First of all, think about how it would look if the SEC called

him up, he sat for an interview, they asked him do you have e-mails, he said yes, they asked for those e-mails, and he said oh no, I don't want to give them to you. You know what that would look like to any regulator or law enforcement agent.

You also know that you also can consider the fact that Moore may not know what the government already has. He may not know if the SEC or any other agency has already gotten his e-mails from some other source, from people he's e-mailing, from a search warrant, from any other place. If he turns over just a selected set of e-mails, if he holds something back, that's going to look real suspicious when they compare the two things.

But most of all, you know that there are two reasons why Moore might have thought that the e-mails would not implicate him in this crime. One, he knew that he and Haddow followed that e-mail etiquette, and tried to avoid creating e-mails that made it clear that Haddow was Jonathan Black. He may not have appreciated that among those hundreds of e-mails would be a handful of slipups that made it devastatingly clear that he knew exactly what was going on.

Second, as we saw before, he may have had the impression that you could only be liable for fraud in the United States, if you only targeted U.S. investors.

Now, I can't predict everything that defense counsel may say to you and I don't need to. You will have another

opportunity to hear from the government when my colleague Mr. Bell steps up for rebuttal after that. So with that, let me move you towards the end part of my closing statement and the charges in this case.

There are two counts: Conspiracy to commit wire fraud in Count One, and the substantive crime of wire fraud in Count Two.

So, let me start with number two, the wire fraud count first. I expect Judge Berman will give you instructions before you deliberate, and you should follow Judge Berman's instructions. I expect that Judge Berman will instruct you that to prove a wire fraud, the government must establish that: First, there was a scheme to defraud one or more persons of money or property by means of false or fraudulent pretenses, representations, or promises. Second, that the defendant knowingly and willfully participated at some point in the scheme to defraud with knowledge of its fraudulent nature and with a specific intent to defraud. And third, that in execution of the scheme to defraud, there occurred at least one use of interstate or international wire communications.

Again, there is no serious dispute that there was actually a scheme to defraud here in connection with Bar Works investments. There is also no dispute that interstate wires were used in the execution of the scheme to defraud. That includes things like e-mails and wire transfers.

So what is at issue is whether the defendant knowingly and willfully participated in that fraud. And it's clear from all the evidence that the defendant was a knowing and willful participant. There is overwhelming evidence here that the defendant had direct knowledge of the fraud.

Now, I also expect Judge Berman to instruct you on wire fraud conspiracy count. And on that count, the government must establish that: First, the charged conspiracy existed; and second, the defendant knowingly and willfully joined the conspiratorial agreement, and therefore became a member of the conspiracy.

Based on all the evidence you've heard, it's clear that there was a conspiracy or agreement between Moore on the one side and Haddow on the other to commit this fraud, and you know that the defendant joined that agreement, that conspiracy, knowingly.

Let me say just a few brief additional words about the conspiracy count. First, to find the defendant guilty of conspiracy, you don't need to conclude that he was the leader of the conspiracy or even the worst actor here. All the law requires, as I expect Judge Berman will instruct you, is a single knowing act by the defendant in furtherance of the conspiracy. And the evidence against the defendant is overwhelming on that front.

Second, I expect the Court will the instruct you that

you don't need to find an explicit agreement between the defendant and Haddow to commit these crimes. You don't need to write down on a piece of paper "you and I agree to commit frauds together." That's not how criminals work, and that's not what the law requires. Common sense tells you that participants don't do those things. They don't jot down and detail each and every one of the lies they're going to tell. That's where common sense comes in looking at the evidence, listening to the testimony, seeing what happened here.

And finally, I expect Judge Berman will instruct you on venue, which basically just means that some act in furtherance of the wire fraud statute, wire fraud scheme, and the wire fraud conspiracy, occurred here in the Southern District of New York. Unlike the elements that I previously discussed, which require proof beyond a reasonable doubt, this one only requires a preponderance of the evidence, and that's clearly satisfied here. You've heard and seen e-mails between Jim Moore and Renwick Haddow about meetings that took place right here in New York, in Bar Works locations in Midtown. You've seen wires of investor money coming into Bar Works' bank accounts right here in Manhattan.

So ladies and gentlemen, you've seen all the evidence in this case, and I hope I've been able to explain how it all fits together. So before I sit down, let me just remind you of three things that Mr. Bell asked you to do at the beginning of

the trial. Pay close attention to the evidence, listen to Judge Berman's instructions, and use your common sense.

We're confident that having now heard all the evidence and seen all the testimony, you will find that the defendant, James Moore, is guilty as charged. Thank you.

THE COURT: Thank you. Counsel.

MR. GARVIN: Your Honor, may we have a five-minute recess for use to the restroom and to set up the Elmo?

THE COURT: Sure. Okay. Take five.

(Jury excused)

MR. BELL: Judge, sorry.

(Recess)

MR. BELL: Your Honor, very quickly, I anticipate rebuttal of no longer than 20 minutes, so I think we're well on course for the jury to actually be able to deliberate some today.

THE COURT: I hope so. We're ready to roll.

(Jury present)

THE COURT: Hi, everybody. Mr. Garvin for the defense summation.

MR. GARVIN: Thank you, your Honor.

THE COURT: You bet.

MR. GARVIN: Good morning, ladies and gentlemen, counsel.

Before we start, I think it would be appropriate to

recognize this Honorable Court, and to recognize each and every one of the members of the jury. You know that this is a very important case for the government. It is everything to Mr. Moore. But, in another country, this would not take place. And someone would make an allegation, somebody would knock on the door, and Mr. Moore would disappear, and there would be no trial.

Each one of you have taken the time from your busy schedules, from your most important affairs. You've sat here and listened diligently, listening to very tedious discussion by myself, by my colleagues, about this e-mail and that date and this document. But you sat there and you paid attention because you knew the gravity of the situation.

And each one of us, including Mr. Moore, want to be certain that we thank you. You know that scholars say that in peacetime, there is no more greater service that you can have to your country than to be on a jury. And you have done that admirably, and you are to be thanked from all of us.

Now, I would like to talk about this case just as my colleague did. And I know that we need to start at what is this case. It is a case about raising money, and, unfortunately, it is a case about deception. It is a case about greed.

Now, there are a lot of people who raise money for companies. Many companies, thousands of companies raise money

so they can get the initial working capital to go through with their business model and reach their goals, and hopefully, when it works properly, both the people who ran the business and the people who invested in the business benefit. That is where it started in this case.

It started with Mr. Moore calling Renwick Haddow, because he wanted Renwick Haddow to introduce him to sales agents to sell the Monterey property that he wanted to develop in Spain.

Now, we have to take a step back and recall who is Renwick Haddow to Mr. Moore. We realize that Renwick Haddow did not even know Mr. Moore until he was introduced to him some time in 2009 or 2010. And during that period of time, Mr. Haddow was operating something called Room to Invest where he was selling fractionalized shares of two hotels in Europe.

Now, Mr. Haddow says that he saw Mr. Moore during this period of time between five and 10 occasions. Well, this period of time from 2009 or '10 to the summer of 2015 is approximately five, perhaps six years.

So we recognize, we step back and say just how many times was Renwick Haddow in the presence of Jim Moore who prior to 2009 he didn't even know? And Renwick Haddow answered that question five to 10 times. That would be approximately one or two times a year on average. One or two times a year.

And we know that on one or two of those occasions, it

was because Renwick Haddow was visiting Miami Beach, and Jim Moore lived there with his wife, and so Mr. Moore met him at a restaurant in Miami and took that photo of the two of them while we were there. And on another occasion, Mr. Haddow claims that he saw Jim Moore in Dubai. He doesn't say that Jim Moore went to Dubai to meet him. Quite frankly, that would be preposterous, but he says that he did see Mr. Moore there.

And he did say, he claims, that Jim Moore worked with him on Room to Invest and he paid Jim somewhere in the neighborhood of 30,000 pounds, up to 50,000 pounds. I'm sure that each of you recall that. He does not have any records of these so-called payments, he does not have any bank records, business records, he doesn't have even any e-mails.

Now, counsel said, well, Mr. Haddow was so candid on the stand and that's why he was credible. Ladies and gentlemen, Mr. Haddow had rehearsed his testimony so many times that he was actually answering questions before the question was completed. Mr. Haddow was asked to read from the monitor transcripts, and he had this uncanny ability to stop mid-paragraph at the appropriate place where counsel wanted him to stop, without counsel ever saying to him "stop after the second sentence."

And Mr. Haddow admitted that he met with the government in excess of 10 times. But do you know why he admitted that? Because he was already placed on notice that I

was given the notes from each and every one of those meetings. The bottom line is that Mr. Haddow is not stupid. And he understands that if you want to be successful telling lies, which he has done his entire life, you admit what you know the other person can prove and you deny what you know the other person can't prove.

And where was that played here? When there is an e-mail, he knows I have it, he admits it. If he says something that's not in an e-mail, he knows I can't possibly prove he's lying yet again.

For example, he caused this Bar Works private placement to be sent to Jim Moore in the summer of 2015, and we know that occurred in September and it is dated August. And then Jim Moore wrote some e-mails about receiving this, and this document is the document that was forwarded to UPG.

Okay. The United States in this case, the government, who has completely bought all of Renwick Haddow's lies, they have completely believed him, they take the position that Jim Moore knew that Jonathan Black didn't exist. Even though Jim Moore, at best, was an acquaintance of Renwick Haddow who had seen him five to 10 times during the past five to six years. And that when the package went to James Robinson and David Kennedy, the owners of UPG, that they knew that Jonathan Black didn't exist.

Ladies and gentlemen, you will hear the jury

instructions in this case that this Honorable Court will give. And I have reason to believe that one of those instructions will say that if there are two equal interpretations of what happened, both of them that could be supported by the evidence, that you are to assume the path of innocence.

MR. BELL: Objection, your Honor.

MR. GARVIN: This is a case in which the government has the burden of proving the case beyond a reasonable doubt. And I believe that the Court will give you -- and make no mistake about it. It's not what I say that matters. It only matters what this Honorable Court says, when it comes to not only the law, but all decisions concerning this trial. But given that, I believe that you are going to get an instruction that in part says: "Proof beyond a reasonable doubt must, therefore, be of such a convincing character that a reasonable person would not hesitate to rely and act upon it in the most important of his or her affairs."

This is what reasonable doubt is. Without hesitation in the most important of your affairs. As I told you in the beginning of this case, and I'm sure that by now you know it to be true, this is a one-witness case, and that witness is Renwick Haddow. None of the other witnesses that the government put up in this case had anything to say about Jim Moore of any significance. Most of them had nothing to say. I believe that Mr. Rivera, if my memory serve me correctly, says

he was requested to send some materials by a drop box to Mr. Moore. That was it. So the only person that we have is Renwick Haddow.

Put your hands around that, and then go to the law, and say could I rely upon this man, knowing what I know, could I do that? And could I do that with the most important of my affairs and do it without hesitation?

You know, most people, when you say most important of your affairs, the first thing that most people say, my family. That's it. You're talking about my family, that's it. We stop there. Can you imagine if Renwick Haddow was involved, Renwick Haddow showed up to you and wanted to take one of your minor children for the day --

MR. BELL: Objection, your Honor.

THE COURT: I'll allow it.

MR. GARVIN: And Renwick Haddow looked you straight in the face and said "don't worry, you can trust me." I profess to you, ladies and gentlemen, knowing what you know about Renwick Haddow, there is not one person in this entire courtroom that would do it, let alone doing it without hesitation.

I profess to you, I propose, that you can not possibly honor your oath to follow this Honorable Court's instructions and say that you would rely on Renwick Haddow for anything, let alone the most important of your affairs without hesitation.

I would like to show you that you'll remember Government's Exhibit 18, where Jim Moore on September 22 has gotten the package of materials that we just saw and he says -- now he's talking to David Kennedy and Neil Storey. These are two people he knows. And you've heard Neil Storey's history. He's not a salesman; he is a former diplomat. And he says, "I've read this thoroughly. It's very well put together and using very expensive and specialized lawyers." How did he know that? Because that's what Renwick Haddow told him. He has no reason to be misleading David Kennedy, one of the two owners of United Property, or Neil Storey. He goes on and talks about that it is a prospectus, and the way it's written is selling securities. And the definition of securities is very broad in the United States.

MR. BELL: Objection.

THE COURT: Overruled.

MR. GARVIN: But he said that the point is that they have to be telling the truth, because if you aren't telling the truth, you are going to go to jail. And the exact words that he said, "I think up to 150 years in jail (seriously)."

This shows you, ladies and gentlemen, that from the inception, Jim Moore believed the materials that he received from Renwick Haddow.

And so what happens? You heard Renwick Haddow say that when he told Mr. Storey about his history, he downplayed

it. That was the word he used.

Now, imagine Mr. Haddow wants Jim Moore to raise money for him and he knows that Jim Moore has been using UPG to try to do the Monterey development, and he knows that UPG has 80 or more employees, brokers to sell this project.

Now it comes up, the issue, because as we saw from the e-mails, Mr. Robinson did some research and found the African land issue and the carbon credit issue. You'll remember that this was under litigation. And that as we saw, there was an appeal filed, and then the appeal was denied, and what the first step of the litigation was, was to determine if this was a collective investment scheme.

When we say collective investment, that means the pooling of other people's money, because that gives jurisdiction to the FCA.

Once they get through that step, then the litigation continues on to determine if there were misrepresentations, and that is the search for fraud. And what did Mr. Haddow tell Mr. Moore? You'll remember Government's Exhibit 42, when Jim Moore said is -- well, actually, it is Haddow that says "It could be challenged. If they have the will." And Mr. Moore wrote back, Well, couldn't everything be challenged? And this is what Renwick Haddow said: "Pretty much. They use it to close down things they think are a fraud, which is what they thought African land was, but turned out it wasn't when they

went to court."

You see, Mr. Haddow wasn't saying to Jim Moore in the beginning of November 2015, hey, I want to commit a gigantic massive fraud, and I want you to be part of it, and I want James Robinson to be part of a massive fraud who I've never met. And I want his partner, David Kennedy, to be a part of a massive fraud who I've never met, and jeopardize their business with 80 employees. That's not what was happening.

You've seen Mr. Haddow on the stand. As this Honorable Court and counsel has said, we've asked you, please do not leave your common sense at the door. Think of his history as to what he's done for 20 years. He has lied to everyone. He has lied to brokers, he has lied to investors, he has lied to the FCA, he's lied to the SEC. He even lies to his own lawyers. He uses people's names without asking them. He makes people's names that don't exist. This man hired an actor off of Craigslist and then wrote him a script, and then videoed him so that he could defraud other people.

Knowing all of that, do you believe in your heart that he told Jim Moore the truth? Or do you believe in your heart that he told Jim Moore that Jonathan Black was somebody who he knew from a position that he held at Regents 88 20 years ago who is very serious and very busy, but he's asked him to head the company, because he can't.

There is no crime with stepping aside and letting

somebody else be the CEO. And that's what he told Jim Moore. And that's what Jim Moore, relying on the information and we saw the e-mail he wrote, believing that this was prepared by lawyers, that's what Jim Moore then presented to UPG, and they relied upon it.

So, when they had questions about the African land deal, this is the kind of stuff that they were told. And now we're in November of 2015.

But, you know, before you even get to November of 2015, Renwick Haddow shows that he is what he is. And literally as soon as UPG starts making calls, they get an agent who tells them that he has the exclusive for Bar Works for Europe. And so, Jim Moore has to write to Renwick Haddow, and say, so who has the exclusive? And what's the percentage? And why tell me we can have it if we get some results if you've already given it out? Now I look an ass in front of everyone.

What does this show you? They're trying to make Jim Moore out to be tied at the hip with Renwick Haddow and to be somehow his best buddy. Renwick Haddow had no special place for Jim Moore. He lied to him just like he lied to everyone, and I submit, ladies and gentlemen, just like he's lied to you.

The thing is that we all want to believe that we're smarter than the next guy. Oh, that would never happen to me. I would never believe his lies. I would never have listened to that. I would have never invested money with Renwick Haddow.

I have to admit that I had those feelings. But now I realize that if you listened to how smooth he is, it becomes completely understandable how they all fall into his web of deceit and lies. It's like a siren in the sea that Jason could hear and is running the boat directly to the rocks. You just can't help it.

Jim Moore didn't go to Bar Works until the middle of October. And what did Jim Moore honestly believe when he saw what was going on there? He said "I'm extremely encouraged/motivated by what I've seen in Manhattan. Bar Works have secured an absolute prime location for their first site. I mean fantastic, really. The footfall outside is incredible. They already have 20 people signed up now (as of this evening)."

Who would tell Jim Moore that? The same person who sat on that stand and told you there were very few, if any, people signed up. The people who were in the Bar Works that day, I submit to you, were people who worked for Bar Works, so that it would look full so that Jim Moore, when we went through it, as Renwick Haddow said, it only took a few moments, would walk away thinking that it's really something more than what it was.

You're going to remember this clearly, I hope, and that is Haddow is on the stand, and he says originally that he told Moore by telephone that Jonathan Black did not exist.

Now, he knows that there is no way to prove that. If you're going to fabricate testimony, this is the kind of thing to fabricate because there is no one who can prove that.

But then he says that Mr. Robinson knew that Jonathan Black didn't exist. Well, how could that be if Mr. Robinson hasn't even met you, Mr. Haddow? And he said, well, not only James Robinson, but David Kennedy knew. Well, how could that be if he didn't know you? And Neil Storey knew, and he even said Sean Phillips knew, and he was not going to vary from the fact that Sean Phillips was there in January.

But why was he saying that? Because he knew he had a problem. And that problem was that David Honeyman from UPG needed a letter and he didn't know Jonathan Black, so he wrote a letter to Jim and copies to David Kennedy and to James Robinson saying that he needed Jonathan Black to write a letter authorizing or recognizing that Asset Folio was authorized agent to sell Bar Works.

Now, if you didn't believe that Jonathan Black existed, why would you be asking these people to get a letter from the person you didn't believe to exist? That makes no sense. So, Mr. Haddow told you that when they came to New York, I went over with them that we've got to write what they called etiquette, the Jonathan Black etiquette as been labeled by counsel. We write these letters pretending like he exists so that later on we can say we thought he existed. But you

guys know he doesn't exist now. Please understand that that occurred on November 20, and this letter was forwarded on November 16. So, unless David Honeyman was clairvoyant and could see into the future, he had not received any instructions from anybody.

And think about how outrageous this is that he wants you to believe. He wants you to believe that people who have never met him are going to agree to be part of a massive fraud with him.

One of the people who wrote to him was Jim Moore. And Jim Moore wrote on November 13, again, a week before this so-called meeting where Haddow had a discussion on Jonathan Black etiquette, and he says: "Morning, Renwick. Please see the following letter for Jonathan's approval." And he attached the letter that is prepared and is made out to dear Mr. Stead, that is Government's Exhibit 64. This is the body of the letter. That letter wasn't written by Jim Moore. It was written by a third party and Jim Moore passed it to Renwick, because Renwick was his contact person. That was the person he knew. He never met Jonathan Black, he's been told by Renwick that he is busy, keeps a busy schedule, and is in London. Jim Moore is in Miami.

I'm showing you Government's Exhibit 75. This is dated November 21, and it says from James Robinson, and "It's a great shout Renwick. Great to meet you, too." And we see the

earlier e-mail is from Mr. Haddow who says "Hi guys. Good to meet/see you all yesterday." So, November 21, yesterday would be November 20. That is how we know that the meeting that Haddow had, the first meeting that Haddow had, was one or two weeks, depending on which letters you're looking at, after those letters were written requesting that Jonathan Black approve the letter and sign off on it.

There is another interesting point at this point that we should talk about. And that is, you remember when Jason Rivera took the stand? Jason Rivera said that he worked at In Crowd Equity, he had a low opinion of it, and that, ultimately, everyone at In Crowd Equity was let go, but he was given a job so that he could continue working with Bar Works.

But, Jason Rivera thought that Jonathan Black was a real person. For several months, when he was working there, he thought that Jonathan Black was a real person. Now, think about that. A person who is working there every day, in New York, believes that there is a person in London whose name is Jonathan Black who is the CEO of the company. He knows who Renwick Haddow is. He talks to him. But he still believes that.

And I submit to you, ladies and gentlemen, that if it's reasonable for Jason Rivera to believe that, then why isn't it reasonable for James Robinson to believe that or for David Kennedy to believe that or Neil Storey to believe that or

Jim Moore to believe that.

The total amount of times that Jim Moore went to Bar Works before he had enough and decided to break away, you can count on one hand. In fact, it's less than one hand. He went in October, around October 15, to see it and he wrote the letter we saw. Then he went back November 18 through November 20, and we've seen those letters, too. And then he went back for a third time, in March. And then in March it all fell apart.

But, perhaps the letter that is most convincing is a letter that relates to Julian White. And Renwick Haddow writes to James Robinson, "I have asked JB to discuss that with Julian when they speak." That is defendant's 5044, dated November 30, 2015. We know that Julian exists because he came here. And you remember what Julian said? He spoke with somebody who says they were Jonathan Black. And he also spoke with somebody who I believe the name was Robert Munden, but I'm not certain of the last name. I'd have to look it up. But the point was, he spoke with two different people. James Robinson wrote him back and said when you say JB, do you mean Jonathan Black? And he wrote back yes.

And then we have December letter. Without any provocation, we have Mr. Haddow saying, "Hi all. Just had a catch up with JB." And then he goes to on to say what JB told him.

Okay. That was written December 21. James Moore was not in Bar Works in December, neither was James Robinson, Neil Storey, and David Kennedy, nor Sean Phillips. So, Mr. Haddow will have you believe that they knew that Jonathan Black did not exist. Or, is what happening here is Mr. Haddow has an agenda? He has a motivation for what he's saying? And what he's saying is to benefit himself, and that's what's happening here? Is what's happening here is he is saying don't believe the e-mails, believe me?

Knowing what you know about Mr. Haddow, and his history, is that a reasonable request in a case this important? Don't believe the e-mails. Believe me.

I submit to you, ladies and gentlemen, that it is preposterous that he suggests that he should be believed over the e-mails.

Remember when he told you repeatedly he never put his wife's last name there because it was the rough equivalent of putting his name on any document. This is Defendant's 5050 and there's her name, Zoia Haddow, signed by Jonathan Black. Meaning he signed, Mr. Haddow. It is just another lie. And not only that, he is putting that name together with Bar Works as the marketing director. So he's not just saying, oh, she has some little job and we don't know who she is.

When he realized that he put that down, what did he say? Because I give him credit, the man is not dumb. What did

he immediately say? Oh, I, I only wrote that for a visa, and it wasn't meant to get out into the public. The next day, because we had a break, he had come up with a slightly better story, and not the visa. When I asked him, well, was it the visa? When I got him to say, yeah, it was the visa, then I said, well, then we're going to defraud the United States immigration service, another government entity.

I'm going to tell a very short anecdote. There was a man who was walking near the railroad tracks, and he heard something rattling. And he looked over, and he saw it was a rattlesnake. And he looked closely, and the rattlesnake had somehow gotten himself trapped between the railroad tie and the rail. And the rattlesnake said to the man, help me, help me, a train is coming, it's going to cut me in half. Please free me. And the man said you are a rattlesnake, I'm not going to free you, you'll bite me. And the rattlesnake looked at the man and said, you would be saving my life. Do you think that I would bite someone who is saving my life? And the man said you're poisonous, I could die.

The rattlesnake could hear the train coming, the whistle blowing, the track vibrating, and said, please, I would never do such a thing to someone who saved me. Save me. And at the last second, the man sprinted over, applied pressure to the rail enough to lift it slightly. The snake got out of the way and the train roared past.

Only a few moments went by, and we all know what happened. That snake bit that man, with poisonous venom.

(Continued on next page)

MR. GARVIN: And the man who was now laying on the ground looked at the snake and said, But you told me you weren't going to bite me.

And the snake replied, You knew I was a snake.

I submit to you that you know who Renwick Haddow is. There is no excuse. You know that he is capable of lying to virtually anyone with a straight face.

Think about what he said to all of us when I asked him, What is more important to you, your money or your freedom? Because he's talking about the difference between a potential 80-year sentence and the possibility of credit time served, which would set him free. Setting him free, that in itself is a scary thought.

But he wouldn't answer the question. He would not answer the question because he knew that if he said, My freedom is more important to me, that would give him a motive to lie. And he didn't want to have a motive to lie. He wanted to have a motive to tell the truth.

So he said, No, no, no, my plea agreement requires me to tell the truth. And if I don't tell the truth, I won't get my 5Kl letter. And if I don't get my 5Kl letter, I will not get any hope of credit time served.

Of course, what was also pointed out here is this: To get a 5Kl letter, the only people that are allowed to decide to file that motion or not is the United States. And that motion

requires substantial assistance to the government in investigating or prosecuting a person who committed a crime. So if he comes in here and says that Jim Moore did not commit a crime, we're done. All the hope of getting out is gone. And I submit to you, ladies and gentlemen, that the truth was his freedom is more important than money.

Think of the outrageous things he has done for money. Think about what he would be capable of doing for his freedom.

And he said to all of us, in January of 2016 he remembers it well because Jim Moore wanted him to retire. Jim Moore wanted to phase him out. That's code for Jim Moore didn't want him around. And it's true, Jim Moore did not want Renwick Haddow around; Jim Moore wanted Bar Works to be something more than just a fraud. Jim Moore wanted it to succeed.

Jim Moore; had been promised a 35 percent equity position. Of course, he got cheated out of that too. And you'll know that his commissions never came out to be 35 percent of what UPG got; you know that never happened. You do the simple math. They say that he got a total of $1.6 million. And we know that UPG raised seven and-a-half million dollars. 35 percent of seven and-a-half million is not 1.6.

What Haddow was doing was he was taking the money and saying, Well, you're paying for your equity. Of course his equity he had no intentions of ever giving.

So Jim Moore wanted him out. Jim Moore wanted him out and wanted this to be a success. That was the beginning of the end. Because Haddow was not going to lose control; Mr. Haddow was going to control everything.

And that brings us to Jim Moore was paying out of his pocket to bring the representatives from Dolphin, a sales group. And Renwick Haddow wants to know, Who are these lot?

And Jim Moore tells him, The Dolphin guys. Neil and I have paid their ticket, etc., to come over.

There has been some discussion about this email. How do we feel we can overcome the Jonathan issue? He's on honeymoon?

Now, ladies and gentlemen, Mr. Haddow said that they had telephone conversations, and you know that they did. Mr. Moore is not writing this because he thinks that Jonathan Black does not exist. He's writing this because he is paying out of his pocket to bring these people from Europe, and they are coming to see Jonathan Black. I submit to you that if he knew Jonathan Black didn't exist, he would have told them some excuse and not paid for them to come from Europe.

What has happened now is that Haddow has made an excuse and said that Jonathan Black is unavailable, that he's gone back to Europe. And now Jim Moore, having been told this, writes an email saying: How do we feel we can overcome the Jonathan issue? Because he's just been told that Black is

unavailable and going back to Europe when Jim Moore is paying for guys to come from Europe to New York. And now Jim Moore, this is not somebody coming up with an idea; this is somebody who's irritated. He's on honeymoon? That was a dig. That was, What do you want me to tell him, he's on honeymoon?

Mr. Haddow wants to do a twist with this and say that, Oh, Mr. Moore is suggesting. No, he's not suggesting, he's complaining.

You'll remember this also. Mr. Moore says -- Renwick Haddow tells him, Well, Sam is going to meet and Zoe and the new PR. You're going to keep them occupied. The idea wasn't to keep them occupied. I submit to you that Mr. Moore didn't pay for these people to fly all the way from Europe because he wanted to keep them occupied. That wasn't the idea. They were supposed to meet Jonathan Black.

And so what does Mr. Moore say about this? Would be great to find a way to get you involved, but equally understand your reticence. That's not somebody who's trying to hide Renwick Haddow. I'm sorry. That's somebody who actually just invited Renwick Haddow to attend, who's invited Renwick Haddow to attend a meeting with sales agents that Mr. Moore was paying for their expenses to get here to assess a business deal with Bar Works. I don't think that it can even be disputed anymore.

You'll recall how much I had to argue, literally argue, with Renwick Haddow as to whether Sean Phillips knew

that Jonathan Black did not exist, and whether or not he had been at Bar Works on more than one occasion, and whether or not he had been there in January versus March.

So let's go over what he said.

He said that he was not there in March; he was there in January. That was false. He said that Sean Phillips knew Jonathan Black did not exist. That was false. And he said that Sean Phillips was not there in March, and that was false. And as we see here from the emails regarding the agenda, this is the agenda with the Dolphin guys. It says: We've arranged for Sean Phillips to be on the ground. And it tells us the date, Wednesday, March 9th; Thursday, March 10th.

Mr. Phillips told you that Mr. Haddow acted peculiar, indifferent, with disdain. He said: He made it clear he didn't even want me there. And when he was sitting with the Dolphin guys at Koi Restaurant, they looked over and they could see 30, 40 feet away Renwick Haddow. And James Moore went over to Renwick Haddow to encourage him to come over and Haddow refused. It was insulting. You'll remember that Sean Phillips said James Moore left early.

The evidence, ladies and gentlemen, shows that after that fiasco of Mr. Moore and Mr. Storey paying for these people to come to New York for what was supposed to be Bar Works' benefit, and that Haddow literally refusing to talk to them, and then on top of that, treating Sean Phillips with disdain,

all he was worried about was Sean Phillips' script. You heard Sean Phillips say that, These guys kept on calling me and saying, Do you have the scripts, the scripts for how to get members. They decided they had enough; they were going on their own.

And you'll remember Defendant's Exhibit 5062, the 5062 that was the confirmation for the order for the URL for Our Space, which was going to be a competitor in Europe to Bar Works. And we showed the date that that was purchased was March 16th, less than a week after these meetings that were such a colossal disaster.

I want to talk to you about Jim Moore calling out Haddow. Counsel says, Well, this was sent by an iPhone and it was done hastily and that's why he didn't realize that Jonathan Black was Renwick Haddow. If you go through these documents, you're going to see that Mr. Moore had an iPad and an iPhone. And they sync up. And if you have experience with those types of electronics, you'll know this, that has to be done intentionally.

And they say, Well, no, it was automatic with the phone. And no, no, no, this was done intentionally and sent to two people who work closely with Haddow to make sure to get a response. This is what they call old-fashioned smoking them out.

And how do we know that that was done intentionally?

On the very next day, Jim Moore wrote to Renwick Haddow. And look, now it doesn't say Jonathan Black, does it? It says Renwick Haddow. And it's on March 11th, and he wants payment please.

You know what is coming here, right? What's coming here is I've just called him out, I suspect that he's got hanky-panky with Jonathan Black, I flew these guys all the way in from Europe to meet Jonathan Black, and then he tells me, Oh, Jonathan had to go to Europe. He can't be bothered. And then he won't attend the meeting. And this is my third time here, and I haven't seen Jonathan Black's face, and I'm going to find out.

Let's see what he replies. You know the most telling thing about this? There was no reply. There was no reply when he put Jonathan Black, and there was no reply the very next day when he requested payment.

And counsel says to you, Well, Jim Moore was double-crossing his partner. No, no, no. Jim Moore was getting out. Jim Moore was getting out and he formed Our Space to do that. And how do we know he was getting out? Because on April 1st, he sent Kevan Halliwell, that's the CEO of Our Space, the pictures from Times Square, that's Bar Works pictures from Times Square. And he says to him, The future competition, Bar Works. Not a long story. Right to the point.

Yes, Renwick Haddow did not go directly at Jim Moore

until June, but Jim Moore was gone in March. That was the straw that broke the camel's back. He embarrassed him with Sean Phillips, he wasted his money and an opportunity with the Dolphin guys. Jonathan Black disappeared for the third consecutive time. Three strikes, you're out. He called him out on it. No reply. The next day he requested his payment. And within the same week, a new Our Space URL was up and running. And by April 1st, the new CEO of the new company was told, Here's our competition.

Now, did Mr. Haddow say, Oh, all those emails were also written in case four years later we would end up in Manhattan in a courtroom? Because that's what he told you about the letters that said, Please have Jonathan put this on stationery for his approval. Those were concocted just in case five years from now we're in a federal courtroom someplace.

I submit the common sense will recognize what that is and what that's worth.

Jim Moore is out the door, but Haddow never slowed down. He never missed a beat. He was stealing everything from UPG through Sam, his in-house sales guy, who he gave the master sales agreement to. He had a Linked In account that showed some poor guy's picture who never met him and told the world that he was the chief executive officer of Bar Works, Jonathan Black.

And think about exactly how this went down, ladies and

gentlemen. Jim Moore wanted to phase him out in January. I submit to you that was when the beginning of the end for Jim Moore in Renwick Haddow's mind started. It's Sam was then open season to start taking UPG's clients because it was inevitable that Moore was *persona non grata*, and UPG would follow Moore, not Haddow.

Moore is the one who ran a successful, legitimate business from 2000 to 2006 that sold over 30,000 parcels of property, billions of dollars, as we heard from the videotape, Mr. Moore being interviewed. And remember this: Mr. Moore was interviewed voluntarily. He was interviewed twice voluntarily, for two hours with law enforcement, and for over an hour with the SEC. You only got to see excerpts of it, snippets of it. But he volunteered and answered all the questions.

Mr. Moore is long gone. But as we know, Haddow was not slowing down. And poor Julian White. I can answer a few of these questions for you. Jonathan Black signs the document.

Look at the outrageous lies that he tells. One of the things that he says is: Yes, we have had lots of corporate hiring space at Bar Works. We just hosted Showtime for the *Billions* show last week. Just when you think he cannot be any more outlandish, he goes and outdoes himself. How does he say that with a straight face? How does he put that in writing? I submit to you that Showtime was not at Bar Works for the *Billions* show or any other show.

Now, I'd like to talk to you about a separate issue, but it was and is a very serious issue. And that is Mr. Moore has a conviction. He's not proud of it, but he has one. And as you've seen from the documentation, ladies and gentlemen, Mr. Moore entered a plea of guilty in that case, because he was guilty.

But if we go through the factual basis here, you're going to learn the circumstances. And those circumstances are very different than Haddow, worlds apart. This is a copy of the factual basis, which is a government exhibit; I believe it's 811.

But it says that the defendant, James Moore, founded Inside Track Seminars and Instant Access Properties in 2001 and 2002 respectively. Both entities were located in the United Kingdom. And Inside Track held seminars for individuals interested in learning about investment of real estate, while Instant Access Properties acted as an agent which would introduce individuals who wished to purchase real estate to real estate developers that had units for sale.

In this process, one of the developers was Paul Oxley. And from 2001 through 2006, Inside Track and Instant Access were wildly, wildly successful. You will see that Maesbury Homes was Paul Oxley's construction and development company located in Orlando, Florida. And you will learn that Instant Access charged a ten percent commission, and that was deemed

earned upon Maesbury Homes, in this case the developer, whoever used Instant Access, signing a contract, meaning the developer's contract with the buyers. And as you read this, you will find out that Paul Oxley was the only person on the bank account because he was a developer and he took everybody's deposit. The entire 1750 units at Grande Palisades was sold out.

The construction was 80 to 90 percent completed, and then the 2007/2008 real estate crash hit and everything. Not just Paul Oxley, but everybody's project cratered. And you will find out that Paul Oxley had a $200 million construction loan. And he had this escrow account with people's deposits. And Paul Oxley had told the people that he would not use their deposit for marketing. But when he paid Instant Access Properties through Darrencrest, he used the deposit money instead of using the line of credit. And that was improper. Nobody knew it except for Paul Oxley.

But when the crash came, you will learn that the banks foreclosed and they were struggling because they didn't want people to lose their money. And so Jim Moore did a video. You saw a two-minute excerpt, because Jim Moore was in it for two minutes. It's an hour-long or half-hour-long presentation, showed the whole place finished. You didn't see that. You saw two minutes of Jim Moore standing in front of the tree.

But the point is that you will see here in these

documents that Jim Moore tried to participate to save the project. Because if everybody went through and closed, the project would not go into foreclosure, nobody would lose their money, and the real estate prices would recover -- especially right next to Disney World -- within a couple of years, and everybody would have weathered the storm.

Unfortunately, the banks did not allow that to happen.

They foreclosed.

That is what you saw.

Well, after that happened, Mr. Moore found out that there's a law in Florida -- it's not in England, there is no such law in England or 48 of the other states in the United States. But there's a law in Florida that if you're constructing a condominium, not a home, a condominium, you cannot use the deposit for marketing. And Paul Oxley did.

And how does Mr. Moore know that Paul Oxley did? Because Paul Oxley, after the fact, came to him in or about the fall of 2008 -- and these papers will confirm it; that is the factual basis -- and tried to get him to sign a fraudulent document saying that Darrencrest and Instant Access would refund all of the money. And Jim Moore didn't understand why he was being asked. And Paul Oxley had to tell him that I spent a portion -- a significant portion of the money I was supposed to hold in trust on marketing that was paid to Instant Access Properties. Mr. Moore refused to sign the document; he

would not help Paul Oxley commit a fraud.

So when Mr. Moore found out the following year that it was against the law, he didn't know what to do. He didn't tell anybody. So it remained concealed until the banks finally figured it out. But Mr. Moore was then charged with a misprision of a felony, which means somebody else committed a crime, you knew about it, but you didn't report it. That offense does not exist anymore. But ignorance of the law is no excuse. And so Mr. Moore pled guilty to that.

I submit to you, ladies and gentlemen, that is not relevant to whether or not Mr. Haddow told Mr. Moore in the summer of 2015, approximately six years removed from when Mr. Oxley told Mr. Moore what he had done wrong. Mr. Haddow had nothing to do with Paul Oxley or the Grande Palisades at Lake Austin. But when you have no evidence, you try to dirty up the defendant. You get somebody to say, Well, if he did that, he's capable of doing this.

This Honorable Court will instruct you that you cannot use the fact that Mr. Moore was convicted of a crime as evidence of a propensity to commit crimes. It is of no value to them. You can use that if you find that it is relevant to whether or not Mr. Moore had absence of mistake when he dealt with Haddow, had a plan or intent or a common scheme with Haddow. You can take that into account as a factor, but that's the only purpose. And I'm positive this Honorable Court will

make that clear.

Defendant's Exhibit 5083 is the culmination of the SEC and the chancery court doing an extremely thorough job, 400 pages of transition -- I shouldn't say "transition." I should say fraudulent behavior of Mr. Haddow. And it's there for you to see if you need to know more than you already know.

I am getting to the very, very end. And I apologize that this is taking so long. And again, I want to thank you for your patience, as this is of the utmost importance to Mr. Moore.

This is Government's Exhibit 143. And this is Mr. Moore and Mr. Haddow. And what Mr. Haddow says on March 20th, he says to Mr. -- now remember, this is four days after Mr. Moore has already registered for Our Space URL and he's out the door. But listen to what Renwick Haddow -- how conniving he is. He says: I agree with you totally. I am already seeking a good lawyer. The other two parties look like they are going to defend themselves, so this plays into hand. He's telling him, This is going to play right into my hand. It's a poker term. As the gloves are off, that means in his parlance, any lie is acceptable, and I shall be laying any misselling directly at them.

This is his strategy; strategy is to lay it on somebody else. And that's exactly what he's doing here. We don't have to guess. He's told us what his plan is. This is

his defense. Lay it off on someone else.

Now, in this case, the United States, unlike England, they didn't play games. They arrested him. So now he has to improvise. And his improvision is, Well, Mr. Moore -- I had a telephone call with Mr. Moore, and I told him that Jonathan Black didn't exist. I never had a telephone call -- I never told James Robinson, I never told David Kennedy, but they knew. I told Neil Storey, a diplomat, but I downplayed it, but he knew. And Sean Phillips knew.

This is the snake that's stuck in the tracks.

Please don't get bit.

I'd like to close with one final two-or-three-minute story that I think is apropos. It's been told in many, many courtrooms. And I'm telling you to please rule on the evidence, and that evidence includes who Mr. Haddow is and the emails that he's written. The United States only wants to focus on the emails that are best for them.

There's two sides to this story.

So the story is that not too long ago in Florida, there is a severe hurricane in the panhandle of Florida, Category 5 did a devastating amount of damage. But as that storm was in the ocean approaching, the seas were kicking up on the beach. And as the storm got closer, the seas got higher. And as the seas kicked up, it started to throw starfish and sand dollars on the beach. The sand dollars, just a small

white shelled fish that doesn't do anything, like a starfish. And the starfish could not crawl. So if they stayed on the beach too long, they would die.

Well, a young 12-year-old boy happened to be on the beach and he saw what was happening. And so he dropped his bicycle, he ran to the water's edge, and he started picking up the starfish and throwing them back. And he worked his way down the beach, but the waves kept on getting higher, and more starfish kept getting dumped on the beach to die. And the little boy was becoming exhausted, but he just kept on throwing, and he kept on and he kept on.

While this was all going on, there was a cynic who was watching him, an older man. And he watched the boy, but he did not help. And the little boy was getting more and more exhausted. And finally the cynic could take it no longer and shouted out, You fool, you cannot hold back the storm. You cannot stop what is inevitable. And besides, what difference would it possibly make?

At that point, the little boy, with tears running down his face, totally exhausted and on his knees, held up the last starfish. And he said, To this one, it makes all the difference in the world.

And he threw him back.

Ladies and gentlemen, I am telling you that Renwick Haddow is the equivalent of the worst Category 5 hurricane that

has ever been. Anyone who gets in his way, like poor Julian White and others, are starfish cast aside. Unfortunately, James Moore is one of those people who's now been thrown on the beach.

I submit to you, knowing who Renwick Haddow is, knowing that it is your duty to find whether there was proof beyond a reasonable doubt, that is, that you could rely upon it without hesitation in your most important affairs, I ask you, isn't it the right thing to throw him back? I don't mean some kind of jury nullification, I mean because it is supported by the evidence and by the law and it is the right thing to do.

Throw him back.

Thank you.

THE COURT: Thank you, counsel.

So Mr. Bell, you get the last word.

MR. BELL: Would you like for me to go now, your Honor?

THE COURT: If you don't mind.

MR. BELL: Sure.

May I take just a moment to set up?

THE COURT: Sure.

MR. BELL: With the Court's permission.

THE COURT: Sure.

MR. BELL: Ladies and gentlemen of the jury, I intend to speak for only 20 minutes today. I value your time, I value

the very real possibility that at this point you are not only inpatient, but quite hungry. And I also recognize that what we are looking at here is not something that requires very much time to address again. You've got some cases that become the resounding mysteries of federal court. This is not one of them. This is the sort of thing that Judge Judy could bang out in 20 minutes, and so I will attempt to help you do the same.

It was interesting during Mr. Garvin's remarks how often he gestured in the general direction of the witness box at a Renwick Haddow who had long since left. And, of course, it makes sense, because Renwick Haddow's testimony looms incredibly large over Mr. Moore's fate today. His testimony was clear and his testimony was devastating, devastating to Mr. Moore and to the defense. And so it's not surprising that so much time was devoted, as Mr. Vainberg predicted, to trying to take him down.

At one point, ladies and gentlemen, Mr. Haddow loomed so large that Mr. Garvin created an imagined version of him that stood in the witness box and asked you, Don't believe the emails, believe me. Don't believe the emails, believe me. But, of course, there's a problem there, ladies and gentlemen. Because if you believe Mr. Haddow, Jim Moore is guilty. And if you believe the emails, Jim Moore is guilty.

The fact of the matter is that the snapshot of this moment is clear. The defendant has three real problems right

now: Renwick Haddow's testimony, the emails, and your common sense. Each of those independently and all three of them together point solely in the direction of the defendant's guilt.

A lot of what Mr. Garvin told you over the last hour and change was intended to take a whack at one, two, or all three of those problems, to suggest that Renwick Haddow's testimony couldn't be trusted, to suggest that the emails don't say what they actually say, and to suggest that you abandon your common-sense reading of those emails in favor of a story and a circuitous route that takes you somewhere other than the obvious conclusion.

So, ladies and gentlemen, I'm going to address those remarks in the context of those three real problems for the defendant. And I ask you to bear with me for just a few minutes.

I mentioned that there was a point where there was an imagined version of Mr. Haddow saying, Don't believe the emails, believe me. Of course, that's not something that Mr. Haddow actually said. Here's something that Mr. Haddow actually said that brought all three of those problems into sharp relief:

Let's see if this works. It does.

And so why don't we start here. You'll remember this moment, sir. Do you have any proof that you told Mr. Moore

that you were Jonathan Black?

And Mr. Haddow said this, and this encapsulates the case as much as any moment in this trial can. He said: There are many confirming emails where we both slipped up on emails between the two of us. I think there is ample confirmation within the email correspondence between the two of us that Jim Moore clearly knew of Jonathan Black, that Jonathan Black was myself.

And Mr. Garvin asks: Sir, is there an email where you write, I am Jonathan Black?

And Mr. Haddow accurately says: There would never be an email like that.

And so here, ladies and gentlemen, we see the collision of all three of Mr. Moore's major problems right now: Mr. Haddow's testimony; the emails, which I submit this trial has only been a weeklong, you haven't forgotten them, they do suggest -- they do not suggest, they demand the conclusion that the defendant knew who Jonathan Black was; and common sense. And so we'll touch on each of these in turn.

By the way, that was the transcript at 410, and we'll have some individual exhibit cites.

And so, again, what I'll look to do in the time that I have left with you is just talk a little bit about those three problems and why the defense closing didn't put a dent in any of them.

Let's talk about problem number one. Let's talk about the fact that Renwick Haddow's testimony is clear and devastating. And Mr. Vainberg put this well. I'm not going to over-harp on the point, but if you credit Renwick Haddow's testimony, as you have every right to, even before you get to any other piece of evidence, then he's guilty, guilty on Count One of conspiracy, guilty on Count One of wire fraud, and this trial is over.

I will say it again.

If you credit Mr. Haddow's testimony, he's guilty.

And so, as predicted, Mr. Garvin took as many shots at Mr. Haddow as he possibly could, some of it in predictable fashion.

What did he say?

First he said that Mr. Haddow was a fraudster. You knew this because that's the first thing that we told you at the outset of the trial. You also know it because Mr. Haddow told you himself. And, of course, he wants you to believe those parts of Mr. Haddow's testimony.

But, ladies and gentlemen, Mr. Vainberg mentioned that he told those lies as part of his frauds in part because he was incentivized to do so. His incentives now are quite different. And there was this whole weird back-and-forth that went on where Mr. Garvin wanted Mr. Haddow to think about which he liked more, his money or his freedom.

Ladies and gentlemen, that is not the choice that Mr. Haddow faces right now. The choice that Mr. Haddow faces, because of the terms of the cooperation agreement, which you saw and which is in evidence and you can review, is a different choice. The choice is, Do you want to tell the truth and have an opportunity to see your freedom, or do you want to lie for no particular reason?

The incentive structure here is clear. If Mr. Haddow tells the truth, he gets the benefit of the 5K and the possibility of leniency. If he lies, he gets nothing and he faces the prospect of up to 80 years in jail without that layer of protection. All of Mr. Haddow's incentives at this point are aligned with the truth.

Once upon a time, when he was actively involved with fraud, including with Mr. Moore, his incentives were aligned to just being able to benefit himself. Don't get money into the calculus, ladies and gentlemen. The choice that actually matters right now, the choice that that defendant faced, was truth or a massive absurd risk and the certainty of not having that protection. So don't get distracted from what the choice actually is.

How else do you know that Renwick Haddow is telling the truth? Ladies and gentlemen, you saw his demeanor, you saw his demeanor over nine hours over the course of three days. You have the opportunity to evaluate that demeanor; that's what

assessing the credibility of a witness is.

But I submit, ladies and gentlemen, that at all points you saw Mr. Haddow take questions seriously; that he admitted where his conduct sometimes was even worse than what the question suggested, that he was serious, that he was focused, that he was detail-oriented, that he corrected Mr. Garvin sometimes when Mr. Garvin's questions were a little bit off from the facts, and that he came across as credible.

And you, ladies and gentlemen, before you get to another item of evidence, have every right to make the determination that Mr. Haddow was credible, that you buy his testimony, and that, as a result, Mr. Moore is guilty.

But there's more than that.

You have some idea in this trial of what a less than credible demeanor would look like, because you saw Sean Phillips. Sean Phillips, who, as Mr. Vainberg noted, flip-flopped back and forth on things as simple as whether he had given a particular answer a question or two before.

Do you remember that moment just yesterday when Mr. Phillips gave an answer and then followed it up somewhat flippantly with, "Let's say that."

And Mr. Vainberg said, I'm sorry, did you just say "let's say that" at the end of your answer?

And Mr. Phillips said, No.

That's what a noncredible witness looks like. He was

manic, he was all over the place, he was glib. Mr. Haddow was serious, he was sober, and he took those answers -- took that answering process seriously, and you should credit his testimony.

But more than that, ladies and gentlemen, as to the question of whether you should credit Renwick Haddow's testimony, we say this: At one point Mr. Garvin said in an earlier address, Mr. Haddow doesn't deserve your respect and that nobody should be convicted on his word alone. We agree with that last part. Nobody should be convicted, I should say, on Mr. Haddow's word alone.

Ladies and gentlemen, nobody has been asking you to. Nobody has been asking you to look at Mr. Haddow in a vacuum. We've asked you from the very beginning of this case to take in his testimony, in light of all the other evidence, particularly the dozens and dozens of emails that make it clear that Mr. Haddow is saying that of course Jim Moore knew about Jonathan Black was true.

We've had a relatively short time together. And perhaps sadly for me, the most memorable part of this trial is going to wind up being my attempts to ask questions of Vincent Lake. That's not because Vincent Lake was a bad witness; it's because I questioned Vincent Lake in the middle of what felt like a three-hour fire alarm, where we were interrupted about 80 times.

But thinking about Mr. Lake right now actually prompts an interesting question, and it's this: If we were sitting in here right now and Renwick Haddow returned to us, he came through those doors right now and said in a slightly more convincing way than our friends on the loudspeaker said, The courthouse is on fire, we've got to get out of here, would you believe him? You might pause. Renwick Haddow has lied a whole bunch in his life. He's committed some frauds.

But here's the thing, ladies and gentlemen: What would happen if after that you saw smoke start pouring in through the crack of the door, you heard a man scream, you heard fire engines start coming up the street in the distance? Here's the thing. That would be, as the reasonable doubt instruction puts it, a matter of genuine and serious importance to your own personal affairs. Nobody wants to be here when there's a fire. But, ladies and gentlemen, I submit that you wouldn't hesitate, not just because you believe Renwick Haddow in isolation, but because you appreciate that you're looking at the totality of the evidence, the totality of what you see and hear.

And here's the point: At that point, ladies and gentlemen, you're not going to ignore what your eyes, what your ears, what your nose tell you just because Renwick Haddow is the first person who told it to you, just because he's the person who connected the dots. You get up and you go.

Ladies and gentlemen, why do you believe Renwick Haddow? You believe Renwick Haddow because what he told you is corroborated by dozens and dozens of emails that make it clear, clear as crystal, that Jim Moore knew what was going on.

By the way, I would submit that as much as Mr. Garvin -- and we respect Mr. Garvin; he's doing everything he can for a client in a bad spot. And to be clear, Mr. Garvin, Mr. Moore, they have no burden; the burden belongs to us until you find that it's been met. And we embrace that.

But, ladies and gentlemen, Mr. Garvin did what he could to gin up a point where Mr. Haddow had been less than truthful on the stand. And I submit he has come up with nothing, nothing. There is not a single point of Mr. Haddow's testimony that there is evidence that actually disproves it in any sort of way.

(Continued on next page)

MR. BELL: (Continuing) The one I think embarrassing point for Mr. Haddow, the entire nine hours on the stand, was that moment when he couldn't remember his wedding anniversary. And ladies and gentlemen, that doesn't prove he is a liar. It proves he is a middle aged man.

But let's continue. The second major problem is the e-mails. And I don't mean to go through all of them right now. I think Mr. Vainberg did more than an adequate job going through the greatest hits of those e-mails. There are more of them. The bulk of those e-mails can be found in the zero to 100, and 100 to 200 series in the exhibits that you are going to have going back into the jury room with you. Leaf through them. Look at the totality of them. But let's touch on some others anyway. Here's some excerpts.

"I wonder if Renwick would care more about people knowing Bar Works is his and his history in carbon credits and lost investments for huge amount of clients would damage his Bar Works reputation." This is Government Exhibit 179, it was e-mailed to Jim Moore. Is there any question? Is there any question that Jim Moore knew about the history?

There is even less of a question because Jim Moore actually e-mailed Haddow a link about his own problems. The problems with the Financial Conduct Authority, that necessitated the whole Jonathan Black facade in the first place. Is there really an issue here? And is there a way to

contort yourself through e-mails like this as to suggest any alternate conclusion? There's not.

Here's Jim Moore himself: "Mate," by the way, at the very beginning of the trial, Mr. Garvin suggested that Mr. Haddow and Mr. Moore weren't friends. You've seen enough of the e-mails between them where they call each other mate. All the time where they joke, where there are smiley faces, where Mr. Moore is in touch with Renwick Haddow's mom, to know that point is garbage. But I digress.

"Mate," says Jim Moore, "see what you think as to this please. And if it's okay, let's get it on headed papers a PDF." This was Government Exhibit 43. And you know what follows. An e-mail that Moore has drafted, purportedly from Jonathan Black. Does he send it to Jonathan Black in order to get that done? He sends it to Haddow, because he knows that Haddow is Jonathan Black.

Is there anything you heard in the defense closing that disrupts the reasonable conclusion, the only reasonable conclusion, that Jim Moore sent that Jonathan Black homework to Renwick Haddow because he knew that Renwick Haddow was Jonathan Black? Is there any doubt at this point? There's none.

Here's another classic. "can you please do me another one of these cut and paste letters as below? Feel free to send back directly to Mr. Honeyman and cc me." Once again, Jim Moore to Haddow's assistant, enclosing a letter from Jonathan

Black that's Government Exhibit 70. Let me pause for a moment.

A JUROR: I'm sorry. I'm so sorry. I have to use the bathroom.

THE COURT: We'll take a break.

A JUROR: Your Honor, do we all have to go?

THE COURT: You don't have to.

(Pause)

THE COURT: Okay, Mr. Bell.

MR. BELL: Thank you, your Honor.

Before the break, I had started to step away from the e-mails, and to be clear, the e-mails are a reason why -- the reason why, ladies and gentlemen, if you don't want to believe somebody like Renwick Haddow, you don't have to. You only have to believe your own ability to read. Because it's all there: Mr. Moore's knowledge, Mr. Moore's active involvement in this conspiracy, it's all there in black and white.

But I had stepped away from that for a moment because I saw Mr. Honeyman's name and was reminded of something. Mr. Garvin suggested that you can't believe Mr. Haddow because he "rehearsed" his testimony so many times with the government. That was a term that Mr. Haddow took issue with, and that we do as well. But he also suggested you can't believe him because his testimony was too good. That he answered questions before they were done being asked.

Ladies and gentlemen, that's because Mr. Haddow is an

active listener here, just as you are. Ladies and gentlemen, you, by the time you had seen a number of e-mails, you, too, were answering questions before they were asked. I remember the one moment where Mr. Garvin had gotten confused about whether David Kennedy was a person being discussed with respect to UPG. And one of you jurors, I think it might have been you, No. 10, suggested -- and correctly -- it's not him, it was David Honeyman. Ladies and gentlemen, we're all jumping in here because what happened was relatively simple. It's clear in the testimony, it's clear in the documents, and it's clear that Mr. Moore is guilty.

But let me jump back in to the e-mails that I was discussing. Here's another one, it's Government Exhibit 59. Time and time again, this is an e-mail that Jim Moore is on. "It seems there is no wriggle room for something that actually benefits the vendor here. Basic things that allow people to sell without Renwick being exposed at all." This isn't the sort of thing where, based on the totality of the evidence that you've seen, Mr. Moore is in a place where he's saying "Exposed? Well, what do you mean? What would Mr. Haddow be exposed for?" You know exactly what the exposure is. It is the exposure of the alter ego.

Then, finally, the classic honeymoon e-mail. I don't want to call it the most damning e-mail we have, because we've got a whole cartload of damning e-mails that we've gone through

a number of times. This one is sufficiently damning that Mr. Garvin took a slightly different strategy in trying to address it. He said, well, there was probably a phone call in there in which this other intervening event had happened. That explains why you don't see any other explanation for this in the e-mail.

I want to be clear. That conversation was made up a half hour ago while Mr. Garvin was talking. There is no evidence in the record, none, that supports the idea that that call took place, and that that honeymoon exchange thus has any significance, other than the obvious. That what are you going to say, "he is on his honeymoon" was significant because Haddow had been on his honeymoon at the time, and Haddow was Jonathan Black.

And that's an interpretation that's only compounded by what comes just a little bit later in that exchange about the Jonathan issue. Well, yeah, the Jonathan issue is that he doesn't exist. About how I can understand why you would be somewhat reticent, yeah, because Renwick Haddow is a known fraudster and you want to keep him away from points of sensitivity as possible. "But, at the same time," the e-mail goes on, "but I would like it if you could get involved in some way." Yeah, because Renwick Haddow is the guy who actually calls the shots and knows the answers to things.

These were competing impulses that Mr. Moore was

dealing with at the time. But there is nothing about that exchange that suggests anything other than his knowledge that Jonathan Black was Renwick Haddow, including something that's just made up out of whole cloth. You should disregard that theory entirely.

Now, by the way, in that same vein, Mr. Garvin noted that Jason Rivera, who you saw testify yesterday, worked at Bar Works and seemed to be somebody who believed that Jonathan Black was real. How could it be the case that an employee who is there every day thinks Jonathan Black is real, but Jim Moore, who is for the most part all the way in Great Britain, does not.

Ladies and gentlemen, those e-mails I described a moment ago, Jason Rivera isn't on any of them. Not on the ones that most strongly make it clear that the recipients know, or in Mr. Honeyman's case would eventually know, who Jonathan Black was. That Jonathan Black and Renwick Haddow were the same person.

So, yeah, if you just want to talk about physical proximity, that's fine. But you are ignoring the fact that all of those e-mails, where they slip up, as Renwick Haddow put it, were e-mails where Mr. Moore was on and Mr. Rivera was not. You should reject that argument.

There is a third major problem, of course, for the defendant, and that is common sense. And it stands to reason,

ladies and gentlemen, that there is a principle called Occam's razor in life, that the simplest solution tends to be the accurate one. It takes effort, it takes contorting to actually tell a story that's not the truth. The truth here is as it appears to be on those e-mails.

And maybe most damning e-mail of them all, by the way, is the one most susceptible to this common sense analysis. The one where Jim Moore sent out an e-mail in which it is clear in his e-mail system, or at least on his phone, Jonathan Black is the name attached to the e-mail address at RenwickHaddow.com.

Ladies and gentlemen, it really doesn't matter how it is that that name got attached to that alias. If it is the case that this was some sort of brushback pitch, as Mr. Garvin describes, although that seems to be a somewhat farfetched and strained reading, it still meant that at the time that that name was changed, Jim Moore knew that Jonathan Black was Renwick Haddow.

I say that it's strange, by the way, because it would be an odd signal to send to somebody in the context of an e-mail to an entirely different person that he just happens to be copied on. Much more likely is that on one of his devices, at least some point -- and look, if you own an iPhone, syncing is complicated between contacts. But at some point, Mr. Moore actually had him saved in there, RenwickHaddow@RenwickHaddow.com, as Jonathan Black.

But either way, the conclusion is inescapable: He knew, he knew, he knew.

Couple of other things. There was continued pushback about how on the face of some of these e-mails, Mr. Moore continues to say things like get this to Jonathan, get this to Jonathan. Mr. Haddow explained the etiquette for you, and it stands to reason than context sometimes explains why people would engage in this sort of misdirection.

Go to the right household at Christmastime and you will see parents having whole conversations about how Santa Claus is going to come so that certain audiences can hear. That doesn't mean that mom and dad believe in Santa Claus. What that means is that they are trying to create a show for the right audience. And in that case, it is whatever kids happen to be nearby. In this case, it is the possibility that, be it sales agents of a rival sort, or law enforcement, that one day those e-mails could fall into the wrong hands.

Now, were they very good at this? Not really, because you see the slipups. You see how the truth becomes known.

But, ladies and gentlemen, you know very well what those fake efforts at saying, Jonathan, can you get this to Jonathan, actually mean. Mr. Haddow told you, the e-mails confirm it, and there is no real ambiguity there.

Mr. Garvin also drew out the one e-mail that was never supposed to -- or the one letter that was never supposed to be

public. That is the letter that Mr. Haddow wrote as Jonathan Black in order to get his wife at the time, Zoia Haddow, a visa. Mr. Garvin started to suggest that Mr. Haddow changed his story about that between one day of testimony and the next, but then couldn't actually tell you how, and I don't think that there was an inconsistency there.

But in any event, it makes sense that this would be the one occasion where Mr. Haddow, acting as Jonathan Black, actually uses his wife's real name. Because he's trying to get his wife a real visa, and because it's not something that's going out to investors. It's something that's going out to a government entity that has to actually punch somebody's real name on a visa in order to give it effect. This entire theory, ladies and gentlemen, is a misdirection, and not a very compelling one.

Ladies and gentlemen, at the end of the day, I'm brought back to the words of two of the great poets really of any day. William Shakespeare, and the actor Wesley Snipes.

William Shakespeare asked What's in a name? And the answer to Renwick Haddow, to Jim Moore, and to his co-conspirators, was everything. Everything.

There's no question in this case, I don't think it is a matter of any real dispute that Jim Moore appreciated Haddow's history, and what it could possibly mean for their efforts to raise money in Bar Works. No question about that.

There is no question, I submit, given the e-mails that you've seen, the honeymoon e-mail, the e-mail with the name change such that Jonathan Black is attached to Renwick Haddow's e-mail address, there is no question that Moore knew exactly who Haddow was. And it makes sense because they were in the same boat together, they were in the same venture together, and their chances to make money rose and fall together with this scheme working.

You're probably wondering about the second great poet and why I mentioned Wesley Snipes. Wesley Snipes appeared in a movie called Passenger 57. It is one of those movies, a lamentably full genre, in which one person has to save a full airplane in danger. Harrison Ford did it better in Air Force One a few couple years later. And Wesley Snipes, in a quote I may or may not use at parties now and then, says something to the effect "Always bet on black."

The scammers here, including Mr. Moore, bet a significant amount on their ability to make the Jonathan Black lie work. And for a time, it did. There is no question, it's not the subject of any dispute, that Bar Works took in north of $38 million as a result. There is no question that UPG, Mr. Moore's entity, Mr. Moore's sales took in about $7 million of that, and you saw millions of those dollars traced through Mr. Hendelman. There is no question that Mr. Moore himself profited to the tune of at least $1.6 million.

The sad thing about this is that other people bet on black, too. You heard from Loreley Zavattiero, you heard from Julian White. You saw the names of all those other people in spreadsheets. These are people who threw, in individual cases, hundreds of thousands of dollars of their own hard-earned money after a lie. A lie that allowed these co-conspirators to conceal the fact that the man behind the company that they were investing in was a known fraudster named Renwick Haddow.

Renwick Haddow will have his day of reckoning. Renwick Haddow will have his time to account. He will face a sentencing judge. But if there is one thing, ladies and gentlemen, you learned from those e-mails, is that he wasn't alone. He wasn't alone in the knowledge, he wasn't alone in the deception, he wasn't alone in the fraud.

That man, ladies and gentlemen, James Moore, was right there with him. And at one point he made, he and his company UPG, made 65 cents out of every dollar coming out of that fraud. That's how important his sale agents were to make this work.

That's what the truth is, because that's what the evidence tells you.

The three problems are still there. That's what Mr. Haddow tells you, that's what that stack of e-mails that Mr. Garvin tried to interpret creatively told you, and it's what common sense tells you.

At the end of the day, ladies and gentlemen, in your hands, the truth seeking operation that is an American jury, those aren't problems. Those are tools. Rely on that testimony. Rely on what those e-mails tell you, not some tortured impossible interpretation of them. Rely on your common sense. Hold him accountable. Find him guilty.

THE COURT: Okay. So, we've heard a lot today, and let me tell you what's remaining and what our time frame is.

So it's about 2:30. That clock is a little bit fast, but it's about 2:30. We normally operate until 5 p.m. If you were deliberating, which you will be, and you needed some more time, you could ask and we could go until later tonight if you wanted to do that. If you were not finished and if you were not at a verdict and you still needed more time, we could also put it over until Monday. I understand. I understand what people want to do, but I don't want anybody to rush. It is an important matter, so I want to be deliberate.

So, I am going to take a 15-minute break now. We're going in that time collect the evidence and the exhibits that are going back to you in the jury room. In 15 minutes, I will read you my instructions. That takes a while. It takes probably the better part of an hour. Could be less, I'll try and make it less. And then, on that schedule, you would be in the jury room with the exhibits somewhere around 4, 4:15.

So, I think you have plenty of time. So you should,

as I say, relax, use the restroom if you need to. And then we'll reconvene at quarter to 3. And I just want you to bear in mind I think you've got plenty of time. So I'll see you then.

(Recess)

(Jury present)

THE COURT: Jurors, you have now heard all of the evidence in the case, as well as the final arguments from the attorneys. My duty at this point is to instruct you as to the law, and it's your duty to accept these instructions of law and apply them to the facts as you determine them, just as it has been my duty to preside over the trial, and decide what testimony and evidence is relevant under the law for your consideration.

On these legal matters, you must take the law as I give it to you. If any attorney has stated a legal principle different from any that I might state in my instructions, it is my instructions that you must follow. You should not single out any instruction as alone stating the law, but you should consider the instructions as a whole when you retire to deliberate in the jury room.

You will receive a copy of these instructions verbatim, along with the verdict sheet to be filled out by the jury. You can take that into the jury room with you.

Your decision, your verdict, must be unanimous. You

should not, any of you, be concerned about the wisdom of any rule that I state, regardless of any opinion that you may have as to what the law may be or ought to be. It would violate your sworn duty to base a verdict upon any view of the law, other than the one I give you.

Your role, as I said earlier, is to consider and decide the fact issues in this case. You, the members of the jury, are the sole and exclusive determiners of the facts. You pass upon the evidence, you determine the credibility or believability of the witnesses, you resolve whatever conflicts may exist in the testimony, and you draw whatever reasonable inferences and conclusions you decide to draw from the facts as you have determined them, and you also determine the weight of the evidence.

In determining the facts, you must rely upon your own independent recollection of the evidence. In this regard, you may refer to your notes, if any, that you may have taken during the trial, but it's your independent recollection that still control. Your notes, as I said to you earlier on, are not evidence. What the lawyers have said in their opening statements, in their closing arguments, in their objections or in their questions is not evidence, and nor is anything I may have said during the trial or may say during these instructions about a fact issue to be taken instead of your own independent recollections. What I say is not evidence. In this

connection, remember that a question alone put to a witness is never evidence. The answer is the evidence. You may not, however, consider any answer where an objection was sustained, and I may have directed you to disregard, or where I directed that the answer be stricken from the record.

If there is any difference or contradiction between what any lawyer has said in their arguments to you, and what you decide the evidence showed, or between anything I may have said and what you decide the evidence showed, it is your view of the evidence, not the lawyers and not mine, that governs.

I also asked you to draw no inference from the fact that, upon occasion, I may have asked questions of certain witnesses or attorneys. These questions were intended only to clarify things or to move things along, and certainly were not intended to suggest any opinions on my part as to the verdict you should render or whether any of the witnesses may have been more credible than any of the other witnesses.

It's important that you understand that I wish to convey no opinion as to the verdict you should render in this case. And that if you nevertheless did believe I was conveying an opinion, you would not in any way be obligated to follow it.

In determining the facts, you must weigh and consider the evidence without regard to sympathy, prejudice, or passion for or against any party, and without regard to what the reaction of the parties or the public to your verdict might be.

I will later discuss with you how to pass upon the credibility of witnesses.

The evidence from which you are to decide what the facts are consists of three things:

(1) the sworn testimony of witnesses on both direct and cross-examination, regardless of who called the witness;

(2) the documents and exhibits that were received in evidence; and

(3) any facts or testimony as to which the lawyers have agreed or stipulated.

Nothing else is evidence.

You should draw no inference or conclusion for or against any party by reason of lawyers making objections or my rulings on such objections. Counsel have not only the right, but the duty, to make legal objections when they think that such objections are appropriate. You should not be swayed for or against either side, simply because counsel for any party has chosen to make an objection. Nor should you be swayed by any ruling that I made on any objection. Whether or not I may have sustained more objections for one side or the other has no bearing on your function, which is to consider all of the evidence that was admitted.

Further, do not concern yourself with what was said at sidebar conferences or during my discussions with counsel. Nor does it make any difference whether any lawyer or whether I

asked for a sidebar conference. Those discussions related to rulings of law and not to matters of fact.

At times I may have admonished a lawyer or a witness or directed a witness to be responsive to questions or to keep his or her voice up. At times I may have questioned a witness myself or made comments to a lawyer. Any questions that I asked or instructions or comments that I gave were intended only to move things along or to clarify the presentation of evidence and to bring out something which I thought may have been unclear.

You should draw no inferences or conclusion of any kind, favorable or unfavorable, with respect to any witness or any party in the case by reason of any comment, question, or instruction of mine. Nor should you infer that I have any views as to the credibility of any witness, as to the weight of the evidence, or as to how you should decide any issue that is before you, the jury. That is entirely your role.

If an objection is sustained, you must not speculate as to what might have been said had the evidence been allowed. Nor may you consider in evidence any statement where an objection was made and sustained, even though you may have heard it before the objection and the ruling.

The defendant has pled not guilty in this case and to the charges in the indictment. As a result of his plea of not guilty, the burden is on the prosecution, which is to say, the

government, to prove the defendant's guilt beyond a reasonable doubt. This burden never shifts to the defendant for the simple reason that the law never imposes upon a defendant in a criminal case the burden or duty of testifying himself, or calling any witness, or of locating or producing any evidence.

The law presumes the defendant to be innocent of all the charges against him. I therefore instruct you that the defendant is to be presumed by you to be innocent when the trial began, and at this very moment, and throughout your deliberations, and until such time, if it comes, that you as a jury are unanimously satisfied that the government has proved him guilty beyond a reasonable doubt.

(Continued on next page)

THE COURT: The presumption of innocence alone is sufficient to acquit the defendant, unless you as jurors are unanimously convinced beyond a reasonable doubt of his guilt after a careful and impartial consideration of all of the evidence in this case. If the government fails to sustain its burden with respect to any element of a particular count, you must find the defendant not guilty on that particular count.

We talked earlier about reasonable doubt. And I explained at that time that the burden is always upon the government to prove guilt beyond a reasonable doubt. This burden, as I've said, never shifts to a defendant, for the law never imposes upon a defendant in a criminal case the burden or duty of testifying or calling any witnesses or producing any evidence. A defendant is not even obligated to produce evidence by cross-examining its witnesses for the government.

It is not required that the government prove guilt beyond all possible doubt; the test is one of reasonable doubt. A reasonable doubt is a doubt based upon reason and common sense, the kind of doubt that you would make a reasonable person hesitate -- excuse me. A kind of doubt that would make a reasonable person hesitate to act. Proof beyond a reasonable doubt must, therefore, be proof of such a convincing character that a reasonable person would not hesitate to rely and act upon it in the most important of his or her own affairs. Unless the government proves beyond a reasonable doubt that the

defendant has committed each and every element of an offense charged in the indictment, you must find the defendant not guilty of that offense.

If the jury views the evidence as a whole in the case as reasonably permitting either of two conclusions, one of innocence, the other of guilt, then the jury must, of course, adopt the conclusion of innocence. The absence of evidence in a criminal case is a valid basis for reasonable doubt.

As previously explained to you, we talked briefly about credibility of evidence. You have now have had the opportunity to observe all of the witnesses, and it's now your job to decide how believable each witness was in his or her testimony. You are the sole determiners of the credibility of each witness and of the importance of witness testimony.

So how do you determine where the truth lies? You should use all the tests for truthfulness that you would use in determining matters of importance to you in your everyday lives. You should consider any bias or hostility that a witness may have shown for or against any party, as well as any interest the witness has in the outcome of the case. It's your duty to consider whether the witness has permitted any such bias or interest to color his or her testimony.

You should consider the opportunity the witness had to see, hear, and know the things about which they testified, the accuracy of their memory, their candor or lack of candor, their

intelligence, the reasonableness and probability of their testimony, and its consistency or lack of consistency, and its corroboration or lack of corroboration with other believable testimony.

You watched the witnesses testify. Everything a witness said or did on the witness stand counts in your determination. How did the witness appear? What was the witness's demeanor while testifying? Often it's not what people say, but how they say it that moves us.

In deciding whether to believe a witness, keep in mind that people sometimes forget things. You need to consider, therefore, whether in such a situation the witness's testimony reflects an innocent lapse of memory or an intentional falsehood. That may depend on whether it has to do with an important fact or with only a small detail.

If you find that any witness has willfully testified falsely as to any material fact, that is, as to an important matter, the law permits you to disregard completely the entire testimony of that witness upon the principle that one who testifies falsely about one material fact is likely to testify falsely about everything.

You are not required, however, to consider such a witness as totally unworthy of belief. You may accept so much of the witness's testimony as you deem true and disregard what you feel is false. As the sole judges of the facts, you must

decide which of the witnesses you will believe, what portion of their testimony you accept, and what weight you will give to it.

There are two kinds of evidence; one is called direct evidence and the other is circumstantial evidence.

Direct evidence is direct proof of a fact, such as testimony by a witness about what that witness personally experienced through his or her own senses, something seen, felt, touched, heard, or tasted. Direct evidence also may be in the form of an exhibit where the fact to be proven is its present existence or condition.

Circumstantial evidence is evidence which tends to prove a disputed fact by proof of other facts. And there's a simple example of circumstantial evidence which we use in jury instructions, which is follows:

Assume that when you came into the courthouse this morning the sun was shining and it was a nice day. And assume that the courtroom blinds were drawn, as they appear to be, and you could, therefore, not look outside. And as you were sitting here, assume further that someone walked into the courtroom with an umbrella that was dripping wet, and then a few minutes later another person came in with a wet umbrella.

Now, on the facts I asked you to assume, you can't look outside the courtroom because the blinds are drawn, and you cannot see for yourself whether or not it's raining, so you

have no direct evidence of that fact. But on the combination of facts which I have asked you to assume, it would be reasonable for you to conclude that it had been raining. That is all there is to circumstantial evidence. You infer on the basis of reason and experience and common sense from one established fact the existence or nonexistence of some other fact.

Circumstantial evidence is of no less value than direct evidence. The law makes no distinction between direct evidence and circumstantial evidence, but it simply requires that your verdict must be based on all the evidence presented.

The defendant in this case, James Moore, has been formally charged in an indictment. The indictment contains two counts or two charges. I will at times refer to each count by the number assigned to it in the indictment. You should know that there is no significance to the order of these numbers or the specific number of counts charged. And indeed my instructions will follow a different order than the order in which the various counts appear in the indictment.

In your deliberations and in reaching your verdict, you must consider each count separately. There are two counts, as you've heard in this case.

The indictment in this case is not evidence; it merely describes the charges made against the defendant. It's a set of accusations. It may not be considered by you as evidence of

guilt of the defendant. Only the evidence or lack of evidence decides that issue.

Incidentally, a copy of the indictment will be furnished to you when you begin your deliberations.

Count One of the indictment charges that from at least in or about 2015, through at least in or about 2016, the defendant conspired with others to commit wire fraud by soliciting funds for investments in a company called Bar Works, Inc. and related entities; and that he did so through material misrepresentations, which scheme involved the use of wires.

Count Two of the indictment charges the defendant with wire fraud itself, which is sometimes called a substantive count. So conspiracy is in one count and the substantive count is in the other count.

In a moment, I will instruct you on each of these charges or counts in more detail. At the outset, however, let me instruct you that you must consider each individual charge or count separately and evaluate each one on the proof or lack of proof that relates to that charge or that count.

As I've just described to you, the indictment contains both a conspiracy count and what is referred to as a substantive count. Unlike the conspiracy charge, which alleges an agreement to commit a certain offense, the substantive count is based on the actual commission of an offense or aiding others to actually commit that offense. A conspiracy to commit

a crime is an entirely separate and different offense from the substantive crime which may be the object of the conspiracy.

The essence of the crime of conspiracy is an agreement or understanding to violate other laws; thus, if a conspiracy exists, even if it fails, it is still punishable as a crime. Consequently, in a conspiracy charge, there is no need to prove that the crime that was the objective of the conspiracy was actually committed.

By contrast, the substantive count requires proof that the crime charged was actually committed, but does not require proof of an agreement. Of course, if a defendant both participates in a conspiracy to commit a crime and then actually commits the crime, that defendant may be guilty of both conspiracy and the substantive crime, as I will instruct you shortly.

So let's turn in this instance to the substantive charge in the indictment. It's more convenient for me to do it this way. And I think that will become obvious, namely, to start with the substantive count and then to the conspiracy.

Count Two charges Mr. Moore in this case with the substantive count of the crime of wire fraud.

Specifically, Count Two charges that from at least in or about 2015, through at least in or about 2016, Mr. Moore participated in a scheme to defraud investors by soliciting funds for investment in a company called Bar Works, Inc. and

related entities through material misrepresentations in a scheme that involved the use of interstate wires.

For this count, the government must prove the following three elements:

First, that on or about the dates alleged in the indictment there was a scheme or artifice to defraud or to obtain money or property by materially false or fraudulent pretenses, representations, or promises.

Second, Mr. Moore is alleged to have knowingly and willfully devised or participated in the scheme or artifice to defraud, with knowledge of its fraudulent nature and with the specific intent to defraud. That's the second element of wire fraud.

And third is the execution of the scheme that Mr. Moore is alleged to have used or caused to be used via interstate or foreign wires.

So let me go over that again quickly, and then in more detail, each of those elements.

So I said with respect to Count Two, which is wire fraud, there are three elements:

First, the time frame, the dates alleged in the indictment. During that time frame, there was some scheme or artifice to defraud or obtain money or property by materially false or fraudulent misrepresentations; second, it includes the element of knowingly or willfully devising or participating in

that scheme or artifice to defraud; and third, it requires the use of interstate or foreign wires.

So here are those three elements in more detail:

The first element the government has to prove beyond a reasonable doubt as to wire fraud is that there was either a scheme or artifice to defraud or to obtain money or property by means of false or fraudulent pretenses, representations, or promises. The government must prove the existence of either type of scheme; it need not prove both to satisfy the first element of the wire fraud statute. A scheme or artifice is simply a plan, device, or course of conduct to accomplish an objective.

"Fraud" is a general term. It includes all the possible means by which a person seeks to gain some unfair advantage over another person by false representations, false suggestions, false pretenses, or concealment of the truth. And, thus, a scheme to defraud is a plan to deprive another person or entity of money or property by trick, deceit, deception, or swindle. The scheme to defraud is alleged to have been carried out by making false or fraudulent statements, representations, claims, and documents.

A statement, representation, claim, or document is false if it is untrue when made and was then known to be untrue by the person making it or causing it to be made. A representation or statement is fraudulent if it was falsely

made with the intention to deceive. A statement may also be fraudulent if it contains half-truths or if it conceals material facts in a manner that makes what is said or represented deliberately misleading. The deception need not be premised upon spoken or written words alone. The arrangement of the words or the circumstances in which they are used may convey the false and deceptive appearance.

These false representations and pretenses must be related to a material fact or matter. We use the word "material" to distinguish between the kinds of statements we care about and those that are of no real importance.

A material fact is one that would have been significant to a reasonable person and a prudent person in relying on the representation or statement or failure to disclose in making a decision. That means if you find the particular statement of fact to have been untruthful before you can find that the statement or omission to be material, you must also find that the statement or omission was one that would have mattered to a reasonable person in making such a decision.

In particular, you must find that the statement or omission was one that would have mattered to a reasonable person in a pecuniary or monetary way. Actual reliance by the person on the representation is not required; it is sufficient if the misrepresentation is one that is capable of influencing

the person's decision and is intended by the defendant to do so.

In addition to proving that a pretense, representation, promise, or statement was false or fraudulent and related to a material fact, in order to satisfy this first element of wire fraud, the government must prove that the alleged scheme contemplated depriving another of money or property. The government is not required to prove that the scheme or artifice to defraud actually succeeded; that is, the government is not required to prove that the defendant realized any gain from the scheme or that the intended victim suffered any loss or harm as a consequence of the fraudulent scheme.

So we're still in the first element of wire fraud. And I am saying that you must find that the statement or omission was one that would have mattered to a reasonable person in a pecuniary or monetary way. And I'm repeating somewhat. Actual reliance by the person on the representation is not required; it is sufficient if the misrepresentation is one that is capable of influencing the person's decision and is intended by the defendant to do so.

In addition to proving that a pretense, representation, promise, or statement was false or fraudulent and related to a material fact, in order to satisfy this first element, the government must prove that the alleged scheme contemplated depriving another of money or property. The

government is not required to prove that the scheme or artifice to defraud actually succeeded; that is, the government is not required to prove that the defendant realized any gain from the scheme or that the intended victim suffered any loss or harm as a consequence of the fraudulent scheme. The question for you to decide -- you, the jurors -- is whether there was such a scheme, not on the consequences of the scheme. Whether or not the scheme actually succeeded is not a question you may consider in determining whether such a scheme existed.

So that's the first element. Remember I said there were three. Here's the second element of wire fraud:

The government must prove, second, that the defendant devised or participated in the fraudulent scheme knowingly, willfully, and with the specific intent to defraud. The words "devised" and "participated" are words that you are familiar with and, therefore, I do not need to spend much time defining those words for you.

To devise a scheme to defraud is to concoct or plan it. To participate in a scheme to defraud means to associate oneself with it, with the scheme, with a view and intent toward making it succeed. While a mere onlooker is not a participate in a scheme to defraud, it is not necessary that the participant be someone who personally and visibly executes the scheme to defraud.

To act knowingly, which is what we are talking about

in the second element, means to act voluntarily and deliberately, rather than mistakenly or inadvertently. To prove that the defendant acted with specific intent to defraud, the government must prove that he acted with the intent to deprive investors of something of value, here, the funds to be invested in a company called Bar Works and its related entities.

In order to satisfy this second element, it is not necessary for the government to establish that the defendant originated the scheme to defraud; it is sufficient if you find that the scheme to defraud existed, even if it was originated by another person; and that the defendant, while aware of the scheme's existence, knowingly participated in it. It is also not required that the defendant participate in or have knowledge of all of the operations of the scheme. The guilt of the defendant is not governed by the extent of his participation.

It's also not necessary that the defendant have participated in the alleged scheme from the beginning. A person who comes in at a later point with knowledge of the scheme's general operation, although not necessarily all of its details, and intentionally acts in a way to further the unlawful goals, becomes a member of the scheme and is legally responsible in all that may have been done in the past in furtherance of the criminal objective and all that is done

thereafter. Even if a defendant participated in the scheme to a lesser degree than others, he is nevertheless equally guilty, so long as that defendant became a member of the scheme to defraud with knowledge of its general scope and purpose.

Before the defendant may be convicted of the fraud charged here, he must also be shown to have acted knowingly and willfully and also with a specific intent to defraud. "Knowingly" means to act voluntarily and deliberately, rather than mistakenly or inadvertently. In other words, the defendant's acts must have been the product of his conscious objective rather than the product of a mistake or accident or mere negligence or some other innocent reason. "Willfully" means to act voluntarily and with a wrongful purpose.

A defendant acted with the intent to defraud if he engaged in or participated in the fraudulent scheme with some realization of its fraudulent or deceptive character, and with an intention to be involved in the scheme to defraud, and to help it succeed with the purpose of causing harm to a victim. The government need not prove that the intended victims were actually harmed, only that such harm was contemplated.

A person is presumed to intend the natural and probable consequences of his or her actions. So when the necessary result of the person's scheme is to injure others, fraudulent intent may be inferred from the scheme itself. Direct proof of knowledge and fraudulent intent is not

required.

The ultimate facts of knowledge and criminal intent, though subjective, may be established by circumstantial evidence based upon a person's outward manifestations, his or her words, conduct, acts, and all the surrounding circumstances disclosed by the evidence and the rational or logical inferences that may be drawn from them. Circumstantial evidence, as I mentioned before, if believed by the jury, is of no less value than direct evidence. In either case, the essential elements of the crime must be established beyond a reasonable doubt.

As a practical matter then, in order to sustain the charges against the defendant, the government must establish beyond a reasonable doubt that he knew that his conduct as a participant in the scheme was calculated to defraud and, nonetheless, he associated himself with the alleged fraudulent scheme for the purpose of causing some loss to another.

That was the second element of wire fraud. Remember, I said there are three. Here's the third:

The third and final element of wire fraud is that the government must establish beyond a reasonable doubt the use of an interstate or international wire communication in furtherance of the scheme to defraud. Wire communications include telephone calls, emails, and text messages. The wire communication must pass between two or more states as, for

example, a telephone call or email between New York and New Jersey. The use of the wires need not itself be a fraudulent representation; it must, however, further or assist in the carrying out of the scheme to defraud.

It's not necessary for the defendant to be directly or personally involved in the wire communication, so long as the communication was reasonably foreseeable in the execution of the alleged scheme to defraud in which that defendant is accused of participating.

In this regard, it is sufficient to establish this third element of the crime of wire fraud if the evidence justifies a finding that the defendant caused the wires to be used by others. This does not mean that the defendant must specifically have authorized others to, for example, make a call or send an email. When one does an act with knowledge that the use of the wires will follow in the ordinary course of business, or where such use of the wires can reasonably be foreseen, even though not actually intended, then he causes the wires to be used.

So those are the three elements of wire fraud.

Before we get to the conspiracy, which is in Count One of the indictment, the conspiracy to commit wire fraud, there's one other concept I want you to understand, and that's called aiding and abetting. You'll see when you get the instructions in the jury room, it starts on page 21.

So in addition to charging the defendant with the substantive count of wire fraud, the substantive count I have just instructed you on also charges Mr. Moore with what is called aiding and abetting.

For example, if the government proves beyond a reasonable doubt that Mr. Moore committed the wire fraud alleged in Count Two, then you need not consider aiding and abetting with respect to that count. If, however, you find that the government did not prove beyond a reasonable doubt that the defendant engaged in wire fraud, you should consider whether the government has nonetheless proved beyond a reasonable doubt that the defendant aided and abetted someone else in the commission of wire fraud as alleged in that count.

Under the federal aiding and abetting statute, whoever quote aids, abets, counsels, commands, induces, or procures the commission of an offense is punishable as a principal. A person who aids and abets another to commit a substantive crime is just as guilty of that crime as if he or she had personally committed it. You may thus find Mr. Moore guilty if you find beyond a reasonable doubt that the government has proven that someone else committed the substantive offense -- wire fraud is what we're talking about -- and that Mr. Moore willfully and knowingly associated himself in some way with the crime, and willfully and knowingly sought by some act to help the crime succeed. Participation in a crime is willful if action is

taken voluntarily and intentionally.

So the first requirement of aiding and abetting liability is that somebody else has committed the crime at issue. The defendant cannot be convicted of aiding and abetting if nobody committed the underlying crime. But if you do find that the underlying crime at issue -- wire fraud in this case -- was committed by someone other than the defendant, you should consider whether the defendant aided or abetted the person who actually committed the wire fraud.

The mere presence of the defendant in a place where a crime is being committed, even coupled with knowledge that a crime is being committed, is not enough to make him or her an aider or abettor. A defendant's acquiescence in the criminal conduct of others, even with guilty knowledge, is not enough to establish aiding and abetting. An aider and abettor must have his own affirmative interest in the criminal venture.

To determine whether the defendant aided and abetted the commission of the crime, ask yourself these questions: Did someone other than the defendant commit the crime at issue? If no, please go on to the next count. There is no aiding and abetting. But if the answer is yes, ask yourself: Did the defendant participate in the crime charged as something that he wished to bring about? Ask yourself: Did he associate himself with the criminal venture knowingly and willfully? And ask yourself: Did he seek by his actions to make their criminal

venture succeed? If so, the defendant is an aider and abettor and, therefore, he is guilty of the offense under consideration which we are talking about here as wire fraud. If not, then he is not an aider and abettor and he is not guilty of that offense.

So now we come to the conspiracy count. It's actually Count One in the indictment. We're dealing with it second here because I think it's easier to understand the difference between the conspiracy count and the wire fraud substantive count.

So conspiracy to commit wire fraud.

I've already explained to you that a conspiracy to commit is a crime entirely separate and different from the substantive crime which may be the object of the conspiracy.

Now I've discussed the substantive count charged in the indictment, that is the wire fraud count, and I will now discuss the elements of the wire fraud conspiracy also charged in the indictment.

Count One charges Mr. Moore with conspiracy to commit wire fraud. In order to sustain its burden of proof on this charge, the government must prove beyond a reasonable doubt the following elements:

First, that the charged conspiracy existed; and second, that the defendant intentionally joined and participated in the conspiracy during the applicable time

period.

Let's talk about the first element first.

The first element is the conspiracy -- is the existence of a conspiracy. A conspiracy is an agreement or an understanding by two or more persons to accomplish one or more unlawful objectives by working together. In order for the government to satisfy this element, you need not find that the alleged members of the conspiracy met together and entered into any express or formal agreement. Similarly, you need not find that the alleged conspirators stated in words or in writing what the scheme was, its objective or purpose, or every precise detail of the scheme with the means by which its object or purpose was to be accomplished.

What the government must prove is that there was a mutual understanding, either spoken or unspoken, between two or more people to cooperate with each other to accomplish the unlawful objective alleged, which, for the purpose of this count, the unlawful objective, is wire fraud. So the objective of the conspiracy is wire fraud.

You may, of course, find that the existence of an agreement to commit wire fraud has been established by direct proof. However, since conspiracy is, by its very nature, characterized by secrecy, you may also infer its existence from the circumstances of this case and the conduct of the parties involved. In a very real sense then, in the context of the

conspiracy charge, actions often speak louder than words. In this regard, you may, in determining whether an agreement existed here, consider the actions and statements of all of those who you found or find to be participants as proof that a common design existed on the part of the persons involved in the conspiracy to act together to accomplish an unlawful purpose.

You will recall that I have admitted into evidence the acts and statements of others. The reason for allowing this evidence to be received against the defendant has to do with the nature of the crime of conspiracy. A conspiracy is often referred to as a partnership in crime. Thus, as in other types of partnerships, when people enter into a conspiracy to accomplish an unlawful end, each and every member becomes an agent for the other conspirators in carrying out the conspiracy.

Accordingly, the reasonably foreseeable acts, declarations, statements, and omissions of any member of the conspiracy and in furtherance of the common purpose of the conspiracy are deemed under the law to be acts of all members, and all of the members are responsible for such acts, declarations, statements, and omissions. If you find beyond a reasonable doubt that the defendant was a member of the conspiracy charged in the indictment, then any acts done or statements made in furtherance of the conspiracy by persons

also found by you to have been members of that conspiracy may be considered against the defendant. This is so even if such acts were done and statements made in the defendant's absence or without his knowledge.

So I said there were two elements to conspiracy. Here is the second element:

If you find that the government has proven beyond a reasonable doubt that the conspiracy charged existed, then you must consider the second element. The second element is that the government must prove beyond a reasonable doubt in order to establish the offense of conspiracy that Mr. Moore knowingly and voluntarily became a member of the alleged conspiracy. I've already instructed you on the definition of "knowingly," and you should apply that definition here too.

In deciding whether the defendant was, in fact, a member of the conspiracy, you should consider whether the defendant knowingly joined the conspiracy. Did he participate in it with knowledge of its unlawful purpose and with the specific intention of furthering its objective?

It is important for you to note that Mr. Moore's participation in the conspiracy must be established by independent evidence of his own acts or statements may be -- must be -- as well as those of the other alleged co-conspirators and the reasonable inferences that may be drawn from them.

Let me say that again.

It is important for you to note that Mr. Moore's participation in the conspiracy must be established by independent evidence of his own acts or statements, as well as those of other alleged co-conspirators and the reasonable inferences that may be drawn from them.

A defendant's knowledge is a matter of inference from the facts proved. In that connection, I instruct you that to become a member of the conspiracy, the defendant need not have known the identities of each and every other member, nor need he have been apprised of all of their activities. Moreover, the defendant need not have been fully informed as to all of the details and scope of the conspiracy in order to justify an inference of knowledge on his part. Furthermore, the defendant need not have joined in all of the conspiracy's unlawful objectives.

The extent of a defendant's participation has no bearing on the issue of guilt. A conspirator's liability is not measured by the extent or duration of his or her participation. Indeed, each member may perform separate and distinct acts and may perform them at different times. Some conspirators play major roles, while others play minor roles in the scheme. An equal role is not what the law requires. In fact, even a single act may be sufficient to draw a defendant within the ambit of the conspiracy.

I want to caution you, however, that a defendant's mere presence at the scene of the alleged crime does not by itself make him or her a member of the conspiracy. Similarly, mere association with one or more members of the conspiracy does not automatically make that defendant a member. A person may know or be friendly with the criminal without being a criminal himself. Mere similarity of conduct or the fact that they may have assembled together and discussed common aims and interests does not necessarily establish membership in the conspiracy.

I also want to caution you that mere knowledge or acquiescence without participation in the unlawful plan is not sufficient. Moreover, the fact that the acts of a defendant, without knowledge, merely happen to further the purposes or objectives of the conspiracy does not make the defendant a member. More is required under the law.

What is necessary is that the defendant must have participated with knowledge of at least some of the purposes or objectives of the conspiracy and with the intention of aiding in the accomplishment of those unlawful ends. The government is not required to prove that the members of the alleged conspiracy were successful in achieving any or all of the objects of the conspiracy.

Count One, which we are now talking about, even though second, is the conspiracy count. Let me spend a couple of

minutes on the object of the conspiracy.

The wire fraud scheme that is alleged to be an object of the conspiracy which is charged in Count One, is the use of the interstate or international wires, for example, through phone calls, email communications, or text messages, in furtherance of a scheme to defraud investors with respect to Bar Works. I explained the elements of this object earlier when I talked about it in the context of the substantive offense that is charged in the indictment, which is the reason I did the substantive count before I did the conspiracy count.

Specifically, I explained earlier what it means to knowingly employ a device, scheme, or artifice to defraud. And those earlier explanations apply here too in the conspiracy count.

Again, it's not necessary for you to find that the agreement was ever expressed orally or in writing, but the government does have to prove that there was a mutual understanding between at least two people.

The next instruction has to do with a concept in law which is called conscious avoidance, and it appears starting on page 28.

As I've explained, all the counts charged require the government to prove that Mr. Moore acted knowingly; both counts require that.

In determining whether the defendant acted knowingly,

you may consider whether the defendant deliberately closed his eyes to what otherwise would have been obvious. I would like to point out that the necessary knowledge on the part of the defendant with respect to any particular charge cannot be established by showing that the defendant was careless, negligent, or foolish; however, one may not willfully and intentionally remain ignorant of a fact which is material and important to his conduct in order to escape the consequences of criminal law.

Thus, if you find beyond a reasonable doubt that the defendant was aware that there was a high probability a crime was being committed, but that the defendant acted with deliberate disregard of the facts, you may find the defendant acted knowingly; in other words, a defendant cannot avoid criminal responsibility for his own conduct by deliberately closing his eyes or remaining purposefully ignorant of facts which would confirm to him that he was engaged in unlawful conduct.

On the other hand, good faith is a complete defense to the charges in this case. If the defendant believed in good faith that he was acting properly, even if he was mistaken in that belief, and even if someone was injured as a result of his conduct, there would be no crime.

In considering whether or not the defendant acted in good faith, you are instructed that a belief by the defendant,

if such belief existed, that ultimately everything would work out in the end, does not necessary mean that the defendant acted in good faith. If the defendant knowingly participated in the scheme for the purpose of soliciting funds for investment in a company called Bar Works by materially false or fraudulent pretenses, representations, or promises, causing some financial or property loss to another, then no amount of honest belief on the part of the defendant that the scheme would work out will excuse fraudulent actions or false representations by the defendant.

Acting with intent to defraud means engaging or participating in a fraudulent scheme with some realization of its fraudulent and deceptive character, and with an intention to be involved in the scheme to defraud and to help it succeed with the purpose of causing harm to the victim. Actual financial harm includes denying a person or entity of access to money.

If a defendant deliberately supplies materially false information in order to obtain money, but believes that no harm will ultimately accrue to the person from which he obtained the money, that is, that the victim will be better off having entered an investing relationship with the defendant, that belief that no harm will result, or even the fact that no harm results, is no defense. Thus, if you find that the defendant intended to inflict harm by obtaining money fraudulently, you

may find that the defendant acted with the intent to defraud.

It is also unimportant whether a victim might have discovered the fraud, had the victim probed further. If you find that a scheme or artifice to defraud existed, it's irrelevant whether you believe that a victim was careless, gullible, or even negligent. Negligence, carelessness, or gullibility on the part of the victims is no defense to a charge of wire fraud.

Venue. I think you've heard this mentioned during the course of the prior proceedings in our case.

With respect to any given count that you are considering, the government, in addition to proving the essential elements of that charge, must also prove that at least one act in furtherance of the charge occurred within the Southern District of New York. This is called establishing venue.

The Southern District of New York includes all of Manhattan and the Bronx, as well as Westchester, Rockland, Putnam, Dutchess, Orange, and Sullivan Counties. The government does not have to prove that a completed crime was committed within the Southern District of New York or that any defendant was ever in the Southern District of New York; it is sufficient to satisfy this venue requirement if any act in furtherance of the crime charged occurred in this district. The act itself may not necessarily be a criminal act, and the

act need not have been taken by the defendant, so long as the act was part of the crime that you find the defendant committed.

Unlike the elements of the other offenses, that is to say, conspiracy and substantive wire fraud, which must be proven beyond a reasonable doubt, the government is only required to prove venue by what's called a preponderance of the evidence. "Preponderance of the evidence" means that it is more probable than not that some act in furtherance of the crime that you are considering occurred in this district.

We're getting there.

Variance in dates and times.

As we have proceeded through the indictment, you have noticed that it refers to various dates and times. It does not matter if the indictment provides that specific conduct is alleged to have occurred on or about a certain date, month, or time, and that the evidence indicates that, in fact, it was on a different date, month, or time. The law only requires a substantial similarity between the dates alleged in the indictment and the date established by the testimony and the exhibits.

You've heard evidence here that prior to appearing in court, witnesses may have discussed the facts of the case and their testimony with attorneys. Although you may consider this fact when you are evaluating a witness's credibility, I should

tell you that there is nothing either improper or unusual about a witness meeting with lawyers before testifying, so that the witness can be aware of the subjects he or she will be questioned about and can focus on those subjects and have the opportunity to prepare or review relevant exhibits before being questioned about them.

You've also heard testimony here of law enforcement officers. The fact that a witness may be employed by the government as a law enforcement official does not mean that his or her testimony is necessarily deserving of more or less consideration or greater or lesser weight than that of an ordinary witness. At the same time, it is quite legitimate for defense counsel to try to attack the credibility of a law enforcement witness on the grounds that his or her testimony may be colored by a personal or professional interest in the outcome of the case. It's your decision, jurors, after reviewing all of the evidence, whether to accept the testimony of the law enforcement witnesses and to give that testimony the weight you find it deserves.

You've also heard from a witness in this case, Mr. Renwick Haddow, who testified that he pled guilty to criminal charges. He testified pursuant to an agreement to cooperate with the government. The law allows the use of accomplice testimony; indeed, it is the law in federal courts that the testimony of an accomplice may be enough in itself for

conviction if the jury finds that the testimony establishes guilt beyond a reasonable doubt.

It is also the case, however, that accomplice testimony is of such a nature that it must be scrutinized with great care and viewed with particular caution when you decide how much of that testimony to believe. I've given you some general considerations about assessing the credibility of witnesses, and I will not repeat them all here; nor will I repeat all the arguments made on both sides.

Nevertheless, let me say a few things that you might want to consider during your deliberations on the subject of accomplice testimony.

You should ask yourselves whether Mr. Haddow would benefit more by lying or by telling the truth. Was the witness's testimony made up in any way because he believed or hoped that he would somehow receive favorable treatment by testifying falsely? Or did he believe that his interests would best be served by testifying truthfully?

If you believe that Mr. Haddow was motivated by hopes of personal gain, was the motivation one that would cause him to lie or was it one that would cause him to tell the truth? Did this motivation color his testimony? In sum, you should look at all of the evidence in deciding what credence and what weight, if any, to give an accomplice witness.

Mr. Moore did not testify in this case. Under our

Constitution, a defendant has no obligation to testify or to present any evidence, because it is the government's burden, as we've said, to prove a defendant guilty beyond a reasonable doubt. That burden remains with the government throughout the entire trial and never shifts to a defendant. A defendant is never required to prove that he is innocent and, therefore, you must not attach any significance to the fact that Mr. Moore did not testify. No adverse inference against Mr. Moore may be drawn by you because he did not take the witness stand, and you may not consider it against Mr. Moore in any way in your deliberations in the jury room.

There are people whose names you may have heard during the course of the trial that did not appear in court to testify. I instruct you that each party had an equal opportunity or lack of opportunity to call any of those witnesses. Therefore, you should not draw any inferences or reach any conclusions as to what they would have said if they had been called as witnesses in this case.

You should remember my instruction, however, that the law does not impose on the defendant in a criminal case the burden or duty of calling any witnesses or producing any evidence whatsoever; and that the burden always rests with the government to prove a defendant's guilt beyond a reasonable doubt.

You may not draw any inference, favorable or

unfavorable, towards the government or the defendant from the fact that any person other than the defendant is not on trial here. You also may not speculate as to the reasons why other persons are not on trial. Those matters are wholly outside the jury's concern and have no bearing on your function as jurors.

You've heard references in the arguments in this case to the fact that certain investigative techniques were employed or used by the government, and that certain others were not used. There's no legal requirement that the government use any specific investigative techniques to prove its case. However, you may consider these facts in deciding whether the government has met its burden of proof. As I told you, you should look at all of the evidence and the lack of evidence in deciding whether the defendant is guilty or not guilty.

The government has offered evidence that the defendant has a prior conviction for separate conduct from the charges in the indictment. In that connection, I remind you that the defendant is not on trial for committing acts that are not alleged in the indictment. You may not consider this evidence as a substitute for proof that the defendant committed any of the crimes charged in the indictment, nor may you consider this evidence as proof that the defendant has a criminal personality or bad character. This evidence about the defendant was admitted for the limited purposes I will describe, and you may consider it only for those limited purposes.

THE COURT: First, if you find that the defendant did engage in the other conduct, then you may, but you need not, infer that the defendant was the person who committed the acts charged in the indictment, or that the acts charged in the indictment, and the other conduct, were part of a common plan or scheme, committed by the defendant.

Second, if you determine that the defendant committed any of the acts charged in the indictment, then you may, but you need not, draw an inference that the uncharged acts are evidence of the background to or development of the charged crimes.

These separate acts of the defendant may not be considered by you for any purpose, other than what I've just explained to you. Specifically, you may not use this evidence to conclude that because the defendant committed the other acts, he must have also committed the acts charged in the indictment.

You've heard that the defendant made certain statements in which he claimed that his conduct was consistent with innocence, and not with guilt. The government claims that these statements in which the defendant exonerated or exculpated himself were false.

If you find that the defendant made a false statement in order to divert suspicion from himself, you may, but are not required to, infer that the defendant believed that he was

guilty. You may not, however, draw the conclusion on the basis of this alone that the defendant is in fact guilty of the crimes with which he's charged in the indictment.

Whether or not evidence as to a defendant's statements shows that he believed that he was guilty and the significance, if any, to be attached to any such evidence, are matters for you, the jury, to decide.

There has been evidence in this case that the defendant made statements to the United States Securities and Exchange Commission and to law enforcement. Evidence of these statements was properly admitted in this case, and may properly be considered by you. You are to give the statements such weight as you the jurors feel they deserve in light of all the evidence.

Now, some of the exhibits that were admitted into evidence in this case were in the form of charts and summaries. For these charts and summaries that were admitted into evidence, you should consider them as you would any of the other evidence.

In this case, you've also heard evidence in the form of stipulations of testimony. A stipulation of testimony is an agreement between the parties, that is to say, the government and the defense, that if called as a witness, the person would have given certain testimony. You must accept as true the fact that the witness would have given that testimony. However,

it's still for you, the jury, to determine the effect to be given to that testimony.

You also heard evidence in the form of stipulations that contain facts that were agreed by the parties to be true. In such cases, you must accept those facts as true.

We have, among the exhibits received in evidence, some documents that are redacted. "Redacted" means that part of the document or tape was taken out. You are to concern yourself only with the part of the item that has been admitted into evidence. You should not consider any possible reason why the other part has been redacted or deleted.

In determining whether the government has proven the charges beyond a reasonable doubt, you should not consider the question of possible punishment in the event you were to find the defendant guilty on one or both counts. Under our system, sentencing or punishment is exclusively the function of the Court. It is not your concern as jurors, and you should not give any consideration to that issue in determining what your verdict will be.

So now, ladies and gentlemen, you're about to go into the jury room and begin your deliberations. All of the exhibits have been collected and will be brought in to the jury room at the start of your deliberations.

If you want any of the testimony read back, you may also request that. But please remember that if you do ask for

testimony, the court reporter must search through his or her notes, and the lawyers must agree on what portions of testimony may be called for, and if they disagree, I must resolve those disagreements. That can be a time-consuming process, so please try to be as specific as you possibly can in requesting portions of the testimony, if you do so.

Your requests for testimony, and in fact, any communication with the Court from the jury room, should be made to me in writing, signed by your foreperson -- I'll come back to this -- and given to one of the marshals who will be outside the door. In any event, do not tell me or anyone else how the jury stands on any particular issue until after a verdict is reached.

We have made up forms for jury notes so you don't have to scribble it down on a blank piece of paper. We'll give you those to take into the jury room also.

Let me get back, as I said, I mentioned foreperson. And I'm going to say this again in a minute. What I'd like you to do soon after you get into the jury room, before you begin your deliberations, is to -- and if you've not already done so -- select someone to be the foreperson for the jury. The foreperson will preside over the deliberations, and speak for you here in open court. The foreperson has no greater voice or authority than any other juror. The foreperson will send out any notes, and when the jury has reached a verdict, he or she

will notify the marshal that the jury has reached a verdict. So I'd like you to do that first. send me a note indicating who the foreperson is.

The government, to prevail, must prove the essential elements of any crime charged beyond a reasonable doubt as already explained to you in these instructions and in the preliminary instructions on day one. If it succeeds, your verdict should be guilty on that charge. If it fails, your verdict should be not guilty.

A verdict must be unanimous. Your verdict must represent the considered judgment of each juror. Whether your verdict is guilty or not guilty, it must be unanimous. Your function is to weigh the evidence in the case, and determine whether or not the defendant is guilty based solely upon such evidence.

Each juror's entitled to his or her opinion. Each, should, however, exchange views with his or her fellow jurors. That is the very purpose of jury deliberation, to discuss and consider the evidence, to listen to the arguments of fellow jurors, to present your individual views, to consult with one another, and to reach an agreement based solely and entirely on the evidence, if you can do so without surrendering your own individual judgment.

Each of you must decide the case for yourself, after consideration, with your fellow jurors, of the evidence in the

case. But you should not hesitate to change an opinion that, after discussion with your fellow jurors, appears incorrect. If, after carefully considering the evidence and the arguments of your fellow jurors, you hold a conscientious view that differs from others, you are not required to change your position simply because you are outnumbered. Your final vote must reflect your conscientious belief as to how the issues should be decided.

I'm also going to give you to take into the jury room a verdict sheet or form to be filled out by the jury when you reach your verdict. The purpose of the questions on the form is to help us, the Court and counsel, to understand what your findings are. I will hand this form which contains a set of questions to the clerk, who will give it to you, so that you may record the decision of the jury with respect to each question. It isn't very long.

No inference is to be drawn from the way the questions are worded as to what the answers should be. The questions are not to be taken as any indication that I have any opinion as to how they should be answered. I have no such opinion, and even if I did, it would not be binding on you.

Before the jury attempts to answer any question, you should read the entire set of questions, I think it's really only one page, and make sure that everybody understands each question. Before you answer the questions, you should

deliberate in the jury room and discuss the evidence that relates to the questions you must answer.

When you have considered the questions thoroughly, and the evidence that relates to those questions, record the answers to the questions on the form that I'm giving you. Remember, all answers must be unanimous.

So now we're just about finished with these instructions to you, and I thank you for your patience and attentiveness. Please remember that no single part of these charges is to be considered in isolation. You're not to consider any one aspect of these charges out of context. The entire charge is to be considered as an integrated statement and to be taken together.

Finally, I say this, not because I think it's absolutely necessary, but because it is the tradition of this Court. I remind the jurors to be polite and respectful to each other, as I'm sure you will be during the course of your deliberations, and so that each juror may have his or her position made clear to all the other jurors.

I remind you once again that your oath is to decide without fear or favor, and to decide the issues based solely on the evidence and my instructions on the law. Thank you.

So, at this point if the lawyers could just come up here for one second and then I am going to have the jurors go into the jury room.

(At the sidebar)

THE COURT: Does anybody have any objections to the reading of the instructions as opposed to the content of them which we discussed earlier?

MR. GARVIN: No, your Honor.

MR. BELL: No, your Honor.

(In open court)

THE COURT: We'll ask the marshal to come up, please. And we're going to swear in the marshal who will accompany the jurors to the jury room.

(Marshal sworn)

THE COURT: So now I'm going to ask the jurors, with the exception of the last juror, to go with the marshal into the jury room. That would be the juror waving her hand good-bye.

(Jury begins deliberations. Time noted 4:14 p.m.)

THE COURT: The exhibit rack is ready to go?

MR. GARVIN: Your Honor?

THE COURT: So please be seated.

Thank you as well. It turns out you are an alternate juror for this jury. And alternate jurors are every bit as important as the other jurors, so we thank you for your service. I'm going to let you go home, of course, and Chelsea will ask you if you have anything in the jury room that she should retrieve for you.

A JUROR: Yes.

THE COURT: Why don't you figure that out. One more thing for the juror. I'm not going to discharge you as a juror. It's Friday. I don't know if they'll reach a verdict today or if they'll need to come back on Monday. And who knows what happens over the weekend, if someone gets sick or not, in which case we would have to call upon you for Monday. So if you would continue to follow my instructions over the weekend, and I will call you, we will call you one way or another on Monday to tell you whether you're needed or not as a juror.

A JUROR: Great.

THE COURT: Thanks so much.

(Alternate juror not present)

MR. GARVIN: Your Honor, I had noticed that during the Court's reading, the Court had discovered a typo and had corrected it. I don't know if the jury instructions that just went back still have the typo or not on page 13. The word "investments" instead of "misrepresentations." So, I was trying to bring that to your attention before those jury instructions got distributed. If the Court were inclined --

THE COURT: I didn't notice, to be honest with you, that you were. Where is it?

MR. GARVIN: I believe the Court caught the error on page 13.

THE COURT: I did. I don't remember where it is.

MR. GARVIN: Page 13, at the very bottom, next-to-last line it says "through material investments." It should say "through material misrepresentations." Instead of the word "investments." I noted that the Court had caught it as it was reading it.

THE COURT: Do you mind if I advise the jurors of that word change with a note?

MR. BELL: Perhaps the most economical way to do it, Judge. Would be to just send in a new page 13 with a note.

THE COURT: That's very complicated. We have to take them all apart.

MR. BELL: No, you wouldn't necessarily, Judge.

THE COURT: Just one page?

MR. BELL: Just one page, just send it in, and says this is a corrected page.

THE COURT: Is that all right?

MR. GARVIN: That's fine.

THE COURT: Sure. I think I'm going to send an accompanying note though, explaining.

MR. BELL: Judge, we have looked over your note and both agreed that it is suitable to go in. Thank you very much.

THE COURT: Sure. And Chelsea, take that right in there.

And so I have a note from the jury which says that the jury foreperson is Juror No. 4, that is Scott Rothpearl. I'll

make this a court exhibit.

It's 4:25. If I haven't heard from them by a quarter to five as to timing or anything else, I'll probably send them a note and say how long do you want to continue deliberating today.

MR. BELL: That's fine, Judge. We're not going anywhere. I think it's late enough in the day.

(Recess pending verdict)

(At 5:10 p.m., a note was received from the jury)

THE COURT: The jury has advised that they have reached a verdict. And we're going to call them in and Chelsea will poll the jury.

(Jury present. Time noted 5:15 p.m.)

THE DEPUTY CLERK: Will the foreperson please stand. Please listen carefully as I read the questions on the verdict sheet, and advise us of the jury's answers.

As to Question No. 1, Count One, conspiracy to commit wire fraud, how does the jury find?

THE FOREPERSON: The jury finds guilty.

THE DEPUTY CLERK: As to Count Two, wire fraud, how does the jury find?

THE FOREPERSON: The jury finds guilty.

THE DEPUTY CLERK: Thank you. You may be seated.

Juror No. 1, is this your verdict?

JUROR: Yes.

THE DEPUTY CLERK: Juror No. 2, is this your verdict?
JUROR: Yes.
THE DEPUTY CLERK: Juror No. 3, is this your verdict?
JUROR: Yes.
THE DEPUTY CLERK: Juror No. 4, is this your verdict?
JUROR: Yes.
THE DEPUTY CLERK: Juror No. 5, is this your verdict?
JUROR: Yes.
THE DEPUTY CLERK: Juror No. 6, is this your verdict?
JUROR: Yes.
THE DEPUTY CLERK: Juror No. 7, is this your verdict?
JUROR: Yes.
THE DEPUTY CLERK: Juror No. 8, is this your verdict?
JUROR: Yes.
THE DEPUTY CLERK: Juror No. 9, is this your verdict?
JUROR: Yes.
THE DEPUTY CLERK: Juror No. 10, is this your verdict?
JUROR: Yes.
THE DEPUTY CLERK: Juror No. 11, is this your verdict?
JUROR: Yes.
THE DEPUTY CLERK: Juror No. 12, is this your verdict?
JUROR: I'm 13, but yes.
THE COURT: One juror was excused, so you became Juror No. 12 or 5 I guess. It doesn't matter.
JUROR: Yes.

THE DEPUTY CLERK: The jury has been polled. The verdict is unanimous.

THE COURT: Okay. Well, then, so, what remains is for me to say thanks to the jury. You were very attentive and it was a pleasure to work with you. And enjoy your weekend.

JUROR: Thank you.

THE COURT: If you remain just for a minute in the jury room, I'll come back and just thank you in person. But I won't hold you up, I promise.

(Jury dismissed)

(Pause)

THE COURT: So, in light of the jury verdict, we have some more that we have to do, and that is to order a presentence investigation report. And counsel, do you wish to be present in connection with any interview of Mr. Moore?

MR. GARVIN: Your Honor, I would respectfully request the opportunity to attend by telephone.

THE COURT: I'll put that down. I don't know how that works. Because you'll be in Florida, you mean?

MR. GARVIN: Yes, sir. I have in the past obtained permission, I have to call in.

THE COURT: To S.D.N.Y.?

MR. GARVIN: To the number provided to the probation. The problem is, in this case, because Mr. Moore will be incarcerated, I don't know if that will be permitted. If it's

not permitted, then I will come up to attend.

THE COURT: So I'm going to order that a presentence investigation report be prepared. This is usually a 90-day process or so. But I'm putting down that counsel wishes to be present by phone, so there should be no interview of Mr. Moore unless counsel is given the opportunity to be present one way or another.

Well, you'll be in touch with Mr. Moore, I take it. So, between the two of you, I don't exactly know how you get alerted as to the date, but I'm sure you will be.

So, I usually advise people that they be cooperative with the probation department who prepares this report, Mr. Moore, of course consulting with your attorney. Both the good things and the not-so-good things, because if they ask you something and you answer and they find contradictory information, that would be a negative situation. But, just give you that heads up.

So I'm going to schedule a sentencing. Let me ask this. How is September 5 for you, counsel?

MR. GARVIN: Your Honor, may I respectfully request it be a little later in September I have to be in another matter that is presently scheduled to begin September 5 in Indianapolis.

THE COURT: How much time do you need for that?

MR. GARVIN: If it could be about the 15th of

September.

THE COURT: How about Monday, September 16. Does that work?

MR. GARVIN: Yes, sir, that works.

THE COURT: Okay. And we'll say 10 a.m.

So back to the presentence report, I should mention that the report is generally important as to any sentencing decision that's made. And so, that's the reason I suggested, Mr. Moore, that you tell them whatever they ask, consulting with your attorney, the good things and the not-so-good things. Because if you fail to disclose something they were to ask about and they find out themselves, they might say you were not being truthful, and that would not be helpful to you.

You, Mr. Moore, and your counsel and the government counsel will have the right and opportunity to examine this presentence report before the sentencing date and to file written objections to it. So I urge you both, Mr. Moore and his counsel, to review it carefully and discuss it before sentencing. If there are any mistakes in the report, please point them out, in this case to Mr. Garvin, so he can point them out to me before the sentencing and so that I don't proceed on the basis of mistaken information.

So we have our hearing date. Let me set a date for submission if counsel want to make any summations.

Mr. Garvin, how about August 23 for any written

submissions. Does that work for you?

MR. GARVIN: Yes, that works.

THE COURT: And for the government, August 30. Is that fine?

MR. BELL: It is, Judge.

THE COURT: We're saying defense submissions in writing by August 23, and the government submission a week thereafter.

Did counsel have anything further they wanted to add?

MR. VAINBERG: Just one thing, your Honor. Our understanding is that Mr. Moore is currently in custody on the prior conviction. I'm not sure when the time for that conviction runs out. So, to the extent that's going to happen within the next three months, we would just move to have a detention order in place to make sure he's not released.

THE COURT: Does it expire in the next --

THE DEFENDANT: November 11, your Honor.

THE COURT: Oh.

MR. GARVIN: I don't think that will be an issue.

THE COURT: You know what? Why don't you look into it, and if you need anything from me, an order or something like that, you'll let me know Monday.

MR. VAINBERG: Okay.

THE COURT: I would imagine that Mr. Moore will be detained here in the Southern District until the sentencing

date. Is that your understanding?

MR. VAINBERG: I'm actually not sure if, absent a detention order from your Honor, if he wouldn't just be taken back to Florida to BOP. That might be another reason.

MR. BELL: He's here on a federal writ. We will get a better sense of what that means, your Honor, and we'll communicate with you via letter on Monday.

THE COURT: That's fair. I'm sure nothing will happen in the interim with respect to the writ. All right. Anything further from Mr. Garvin?

MR. GARVIN: No, your Honor. Not at this time.

THE COURT: Okay. So when the government advises me, of course you'll be copied on correspondence with respect to writ status, etc.

MR. BELL: Your Honor, at the risk of perhaps saying too much, there is one lingering matter. I know Mr. Garvin as a placeholder made a motion pursuant to Rule 29.

THE COURT: Oh. Yes. So, thank you for reminding me. There is a motion, a Rule 29 motion. Did anybody wish to be heard in support of the motion?

MR. GARVIN: No, sir.

THE COURT: Do you want to be heard in opposition?

MR. BELL: Only to note very briefly, Judge, that given the nature of the charges, it is our belief that the testimony of Mr. Haddow alone, which the jury had every right

to credit, would serve to establish each of the elements of each of the crimes charged.

THE COURT: And you're remembering that the motion was made at the close of the government's case.

MR. BELL: That's correct.

THE COURT: So this is the motion that was pending as of that time. And I agree with you, there was sufficient evidence presented at that time, that is to say the date of the motion, for the motion to be denied. And respectfully, that motion is denied.

All right then. Thank you very much, everybody.

MR. BELL: Thank you, your Honor.

MR. GARVIN: Thank you, your Honor.

(Trial concluded)

INDEX OF EXAMINATION